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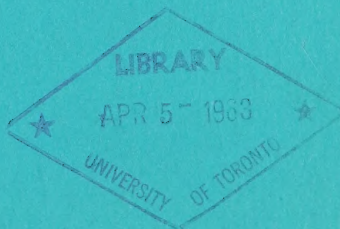
MONTHLY REPORT

4625



JANUARY 1963

ONTARIO LABOUR RELATIONS BOARD



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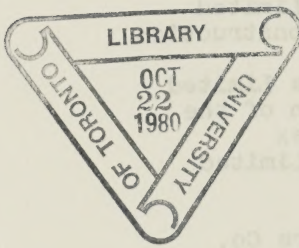
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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING JANUARY 1963

Bargaining Agents Certified During January
No Vote Conducted

4482-62-R: National Union of Public Service Employees
(Applicant) v. Georgetown & District Memorial Hospital
(Respondent).

Unit: "all employees of Georgetown & District Memorial Hospital at its hospital in Georgetown, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate pharmacists, graduate dietitians, student dietitians, technical personnel supervisors, foremen, persons above the rank of supervisor or foreman, chief engineer, office staff and persons regularly employed for not more than 24 hours per week." (63 employees in the unit).

On November 22, 1962, the Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the term technical personnel comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians.

For the purposes of clarity, the Board further declares that the bargaining unit included certified nursing assistants.

During the course of processing this application, certain discrepancies with respect to the signing of an application for membership card and the payment of the initiation fee to the applicant union by an employee affected by this application came to the attention of the Board. The Board conducted an inquiry into the matter and, at the inquiry, full opportunity was afforded to the parties to examine the witnesses, to offer additional testimony and to present argument. On the basis of all the evidence before the Board we find that the card in question was not signed by the employee whose signature it purported to bear and that this employee had not paid the initiation fee for membership in the applicant union. We are satisfied that the action impugned is that of an employee of the respondent in the bargaining unit and that no responsible officer or official of the applicant union had any knowledge

of the action of this canvasser in respect of this card. This canvasser does not appear as a witness or collector on any of the remaining evidence of membership filed by the applicant. Having regard to the Board's policy in matters of this nature, as set out in its decision in the Webster Air Equipment Case, (1958) C.C.H. Canadian Labour Law Reports, 1954-1959, Transfer Binder, ¶16,110, we are of opinion that the card in respect of which the irregularity has been established should be disallowed and that weight be given to the remaining evidence of membership."

4672-62-R: North Bay General Workers Union, Local 1603, Canadian Labour Congress (Applicant) v. Cochrane-Dunlop Hardware Limited (Retail and Wholesale divisions at North Bay) (Respondent).

Unit: "all employees of the respondent in retail and wholesale division at North Bay, save and except managers, warehouse foremen and persons above the rank of manager and warehouse foreman, office staff, outside salesmen, persons hired as temporary help for the vacation periods, Christmas rush and special sales, and persons regularly employed for not more than twenty-four hours per week."
(18 employees in the unit).

(Written Reasons for Decision were issued).

4760-62-R: Building Service Employees' International Union Local 204, A.F. of L-C.I.O., C.L.C. (Applicant) v. York County Hospital Corporation (Respondent).

Unit: "all employees of the respondent at its Hospital at Newmarket, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate pharmacists, graduate dietitians, student dietitians, technical personnel, supervisors, foremen, persons above the rank of supervisor or foreman, chief engineer and persons regularly employed for not more than 24 hours per week." (98 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

The Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the term technical personnel comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians."

4927-62-R: Rheem Employees Association (Applicant) v. Rheem of Canada Limited (Respondent) v. District 50, United Mine Workers of America (Intervener).
(INTERVENER DISMISSED).

Unit: "all employees of the respondent at Hamilton, save and except foremen, persons above the rank of foreman and office staff." (113 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 427)

4938-62-R: The Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Riverside Poultry Company Limited (Respondent).

Unit: "all employees of the respondent at London, save and except foremen, persons above the rank of foreman and office staff." (86 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

The Board endorsed the Record in part as follows:

"This application came on for hearing before this Board on November 29th, 1962. Without prior notice to the Board, P. M. Suskind appeared at the hearing and stated that he represented a group of employees who were opposed to this application. He was informed by the Chairman that since the terminal date had past it was too late to file a petition on behalf of a group of employees. Mr. Suskind did not indicate that he wished to make charges against the applicant.

A letter dated December 3rd, signed by Alphonsus Traverse, Robert H. Tripp, Clare D. Wright and Ross E. Hunter, who are employed as stationary engineers with the respondent was received by the Board on December 4th. The said letter contained allegations of improper conduct by the applicant. A further letter, dated December 3rd, signed by R. H. Tripp enclosing a number of affidavits in support of the allegations contained in the above mentioned letter of December 3rd, was received by the Board on December 14th.

Having regard to the representations contained in the said letter of December 3rd and the affidavits accompanying the letter of December 13th, this matter was listed for a continuation of hearing on January 17th, 1963.

The four above-named stationary engineers were notified that they would be called upon to show cause why this Board should inquire into the matters raised in the letter and three of the affidavits referred to above.

At the hearing on January 17th, 1963, this Board was informed by A. B. Suskind, that he had knowledge of the allegations contained in the said affidavits on November 26th, three days prior to the original hearing of this application on November 29th. Although the date was not established, the group of employees concerned had knowledge of the alleged improper conduct of the applicant at some time prior to November 26th.

It is our opinion that the group of employees concerned had an opportunity to notify this Board of their intentions to allege improper conduct on the part of the applicant prior to the hearing on November 29th, 1962. They failed to give such notification prior to the said hearing or at the hearing. Having regard to section 48 of the Board's Rules of Procedure and the Fleck Manufacturing Limited Case (1962 C.C.H. Canadian Labour Law Reporter Vol. 1 #16,236; C.L.S. 76-861) we find that the four above-named stationary engineers have not shown cause why this Board should now inquire into the matters raised in the letter of December 3rd or the affidavits enclosed with the letter of December 13th."

4996-62-R: Lumber & Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. Buchanan Brothers (Respondent).

Unit: "all employees of the respondent engaged in its woods operation in that portion of the Abitibi Power and Paper Co. Ltd. limits and the Great Lakes Paper Co. Limits lying north and north-west of the Townships of Dorion, Stirling, Hele, Booth and Purdom, save and except foremen, persons above the rank of foreman and office staff."
(8 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

5001-62-R: Sheet Metal Workers' International Association, Local Union 269 (Applicant) v. Quinte Plumbing & Heating (Respondent).

Unit: "all sheet metal workers, sheet metal apprentices and helpers in training in the employ of the respondent working at or out of Glen Miller, save and except non-working foremen and persons above the rank of non-working foreman."
(3 employees in the unit).

5002-62-R: Sheet Metal Workers' International Association,
Local Union 269 (Applicant) v. Van Dusen Bros. Ltd.
(Respondent).

The Board endorsed the Record in part as follows:

"This is an application for certification, Construction Industry. In view of the wide implications that might have resulted from a decision of the Board in this matter, the Board has taken some time to give careful consideration to the submissions of the parties. The decision arrived at in this case must not be regarded as laying down any general policy either on the meaning to be given to the words 'construction industry' as contained in section 1 (1) (da) of The Labour Relations Act or to the words 'geographic area' as contained in section 92 of the Act.

The Board further finds that this is an application for certification within the meaning of section 92 of The Labour Relations Act. It should be noted that this finding relates only to the bargaining unit as described below. In the circumstances the Board has not found it necessary to consider the wider submissions of the applicant that all employees of the respondent engaged in sheet metal work, whether as installers, mechanics or fabricators, fall within the definition of construction industry as set out in section 1 (1) (da) of The Labour Relations Act."

Unit: "all sheet metal workers, sheet metal apprentices and helpers in training in the employ of the respondent in the Township of Sidney, in the County of Hastings including the Town of Trenton, save and except non-working foremen and persons above the rank of non-working foreman."
(6 employees in the unit).

5003-62-R: Sheet Metal Workers' International Association,
Local Union 269 (Applicant) v. Acme Plumbing & Heating
(Respondent).

Unit: "all sheet metal workers, sheet metal apprentices and helpers in training in the employ of the respondent working at or out of Belleville, save and except non-working foremen and persons above the rank of non-working foreman."
(5 employees in the unit).

The Board endorsed the Record as follows:

"The applicant alleges that the application is one falling within section 92 of The Labour Relations Act. At the hearing in this matter the applicant was unable to give the Board any definitive picture of the nature of the respondent's business or the work engaged in by the employees for whom the applicant is seeking to act as bargaining agent. In the circumstances the Board is unable to find that the application is one falling within section 92 of The Labour Relations Act. The Board does not consider it necessary to give further directions in this case."

5004-62-R: Lumber & Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. R. Baldi (Respondent).

Unit: "all employees of the respondent engaged in his woods operations in the District of Thunder Bay, save and except foremen, persons above the rank of foreman and office staff." (6 employees in the unit).

The Board endorsed the Record in part as follows:

"The Board notes that in arriving at a description of the appropriate bargaining unit it has taken into account that the respondent has made no reply to this application and at no time has made any representations with respect to the bargaining unit."

5039-62-R: Ready Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers, Local Union No. 230, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. C.A. Pitts General Contractor Ltd. (Respondent) v. International Union of Operating Engineers, Local 793 (Intervener).

Unit: "all employees of the respondent working at or out of Boston Township in the District of Temiskaming, on the Jones & Laughlin Steel Project, Adams Mine, engaged as drivers of Dump, Service or Euclid trucks, and drivers of D.W. 20 and D.W. 21 Dumps and Rear End Ejectors when used on a power unit for equipment which is not self-loading, save and except non-working foremen and persons above the rank of non-working foreman." (24 employees in the unit).

5058-62-R: United Steelworkers of America (Applicant) v. Outboard Marine Corporation of Canada (O.M.C. Boats) (Respondent).

Unit: "all employees of the respondent at its plant in Trenton, save and except foremen, persons above the rank of foreman, office, sales, laboratory and experimental staff." (41 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

5068-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Ball Brothers Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices of the respondent employed in the Township of Nottawasaga in the County of Simcoe, save and except non-working foremen and persons above the rank of non-working foreman."
(3 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 432)

5080-62-R: Toronto Newspaper Guild, Local 87 (Applicant) v. The Burlington Printing Company Limited (Respondent) v. Hamilton Typographical Union No. 129 (Intervener).

Unit: "all employees of the respondent at Burlington, save and except mailing, composing room, press-stereotyping and bindery employees, managing editor and advertising manager."
(9 employees in the unit).

5107-62-R: Hamilton Printing Pressmen and Assistants' Union No. 176 (Applicant) v. Echlin Press Limited (Respondent) v. Amalgamated Lithographers' of America, Local #42 (Intervener).

Unit: "all letterpress pressmen, their assistants and their apprentices in the letterpress pressroom of the respondent's plant at Hamilton, save and except non-working foremen and persons above the rank of non-working foreman."
(4 employees in the unit).

5113-62-R: Teamsters Chauffeurs Warehousemen and Helpers Local No. 91, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers (Applicant) v. Thibeau Transport Ltd. (Respondent).

Unit: "all employees of the respondent at Pembroke, save and except foremen, those above the rank of foreman, office and sales staff." (4 employees in the unit).

5131-62-R: United Steelworkers of America (Applicant) v. Fittings Limited (Respondent).

Unit: "all employees of the respondent at Oshawa, save and except foremen, persons above the rank of foreman, stationary engineers, office staff and employees bound by a subsisting collective agreement between the applicant and respondent."
(2 employees in the unit).

5133-62-R: Retail Clerks International Association (Applicant) v. Discount Foods Limited (Respondent).

Unit: "all employees of the respondent employed at its store in Gloucester Township, save and except store manager, assistant store manager, meat manager, produce manager, head checker, persons regularly employed for not more than 24 hours per week, and students hired for the school vacation period." (24 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

5157-62-R: Amalgamated Lithographers of America, Local 40 (Applicant) v. Ottawa Litho Plate Makers Ltd. (Respondent).

Unit: "all lithographers, their apprentices and helpers in the employ of the respondent at Ottawa, save and except foremen and persons above the rank of foreman." (4 employees in the unit).

5162-62-R: Retail Clerks International Association (Applicant) v. Discount Foods Limited (Respondent)

Unit: "all employees of the respondent at its stores in Nepean Township, save and except store manager, assistant store manager, meat manager, produce manager, head checker, persons regularly employed for not more than 24 hours per week and students employed during the school vacation period." (19 employees in the unit).

(HAVING REGARD TO THE REPRESENTATIONS AND AGREEMENT OF THE PARTIES).

5167-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Starnino Cesaroni Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent in the Townships of Puslinch, Nichol, Pilkington, Guelph and Eramosa in the County of Wellington, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

5169-62-R: United Steelworkers of America (Applicant) v. St. Catharines Crushed Stone Limited (Respondent).

Unit: "all employees of the respondent at St. Catharines, save and except foremen, persons above the rank of foreman, and office staff." (12 employees in the unit).

5176-62-R: International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers Local 419, Warehousemen and Miscellaneous Drivers (Applicant) v. Peoples Produce Company Limited (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff." (6 employees in the unit).

5188-62-R: Retail Clerks International Association (Applicant)
v. Discount Foods Limited (Respondent).

Unit: "all employees of the respondent at its store in London, save and except store manager, assistant store manager, meat manager, produce manager, head checker, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (15 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

5195-62-R: Retail, Wholesale and Department Store Union,
AFL-CIO-CLC (Applicant) v. United Dairy and Poultry Co-
Operative Limited (Respondent).

Unit: "all office employees of the respondent at Perth, save and except office manager." (3 employees in the unit).

5199-62-R: Pattern Makers' Association of Hamilton and
Vicinity affiliated with Pattern Makers' League of N.A.
(Applicant) v. Industrial Pattern and Model Company
(Respondent).

Unit: "all pattern makers of the respondent at Hamilton, save and except manager, persons above the rank of manager." (3 employees in the unit).

5201-62-R: Hamilton General Workers Union Local 202, CLC
(Applicant) v. Parquet Flooring Co. Ltd. (Respondent).

Unit: "all employees of the respondent at Hamilton save and except operations managers and those above the rank of operations manager and office staff." (23 employees in the unit).

5202-62-R: Sheet Metal Workers' International Association,
Local Union 269 (Applicant) v. Dacon Construction Limited
(Respondent).

Unit: "all sheet metal workers, sheet metal apprentices and helpers in training in the employ of the respondent working at or out of Kingston, save and except non-working foremen and persons above the rank of non-working foreman." (2 employees in the unit).

5208-62-R: Local Union 1678 of the International Brotherhood
of Electrical Workers AFL-CIO-CLC (Applicant) v. Deseronto
Public Utilities Commission (Respondent).

Unit: "all employees of the respondent, save and except manager and persons above the rank of manager." (3 employees in the unit).

5211-62-R: Brotherhood of Painters, Decorators & Paperhangers of America, Local Union #1393 (Window Cleaning & Janitorial Service) (Applicant) v. Gordon A. MacEachern Limited (Respondent).

Unit: "all employees of the respondent at Windsor, Ontario, save and except foremen, persons above the rank of foreman, office and sales staff." (8 employees in the unit).

5212-62-R: International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Applicant) v. Lux Time (Canada) Limited (Respondent).

Unit: "all employees of the respondent in the Town of Oakville, save and except supervisors, foremen, those above the rank of foreman and office staff." (60 employees in the unit).

5222-62-R: International Leather Goods, Plastics & Novelty Workers' Union, Local 8 (Applicant) v. John Hort Hollywood Handbag Ltd. (Respondent).

Unit: "all employees of the respondent at Toronto, Ontario, save and except foremen, those above the rank of foreman, sales and office staff." (8 employees in the unit).

5229-62-R: The National Union of Public Service Employees, (Applicant) v. The Pioneer Manor, Sudbury, Ontario (Respondent).

Unit: "all employees of the respondent, save and except professional medical staff, department heads, persons above the rank of department head, registered nurses, office staff and persons regularly employed for not more than 24 hours per week." (60 employees in the unit).

5233-62-R: International Molders and Allied Workers Union AFL-CIO-CLC (Applicant) v. Bolton Casting Company (Respondent).

Unit: "all employees of the respondent at Bolton save and except foremen, persons above the rank of foreman, office and sales staff." (12 employees in the unit).

5260-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Craftwood Construction Company Limited (Respondent).

Unit: "all construction labourers of the respondent within a twenty-five mile radius from Toronto City Hall, save and except non-working foremen and persons above the rank of non-working foreman and shop and yard employees." (5 employees in the unit).

5273-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Geo. Robson Construction Ltd. (Respondent).

Unit: "all construction labourers of the respondent within a twenty-five mile radius from Toronto City Hall, save and except non-working foremen and persons above the rank of non-working foreman and shop and yard employees."
(9 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

4950-62-R: The Canadian Union of Operating Engineers (Applicant) v. Carling Breweries Limited (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener).

Unit: "all stationary engineers employed in the respondent's plants in Waterloo, save and except the chief engineer."
(4 employees in the unit).

Number of names on revised eligibility list		9
Number of ballots cast	9	
Number of ballots marked in favour of applicant	5	
Number of ballots marked in favour of intervener	4	

5119-62-R: The American Federation of Grain Millers International Union, AFL-CIO, CLC. (Applicant) v. George Weston Limited (Respondent) v. Employees' Association of George Weston Limited (Intervener).

Unit: "all employees of the respondent at Brantford, save and except assistant foremen, assistant foreladies, persons above the rank of assistant foreman or assistant forelady, office staff, sales and technical staff, registered nurse, students hired for the school vacation period and persons regularly employed for not more than 24 hours per week."
(197 employees in the unit).

Number of names on revised eligibility list		182
Number of ballots cast	188	
Number of ballots segregated (not counted)	6	
Number of ballots marked in favour of applicant	114	
Number of ballots marked in favour of intervener	68	

Certified Subsequent to Post-Hearing Vote

2756-61-R: United Steelworkers of America (Applicant) v. Canadian Industries Limited (Respondent v. Sudbury Mine, Mill & Smelter Workers' Union, Local 598 (Intervener) International Union of Mine, Mill & Smelter Workers (Intervener) v. Sudbury Mine, Mill and Smelter Workers' Union, Local 598 of the International Union of Mine, Mill and Smelter Workers: the said Local 598 (Intervener).

Unit: "all employees of the respondent at its Copper Cliff Works, save and except foremen, those above the rank of foreman, guards, office and clerical staff, engineering and technical staff, and laboratory technicians."
(71 employees in the unit).

Number of names on eligibility list		71
Number of ballots cast	70	
Number of ballots marked in favour of applicant	45	
Number of ballots marked in favour of Sudbury Mine, Mill & Smelter Workers, Local 598	25	

4407-62-R: United Steelworkers of America (Applicant) v. Air Liquide (Respondent).

Unit: "all employees of the respondent at Toronto, save and except foremen, chief shippers, persons above the ranks of foreman and chief shipper, office and sales staff."
(25 employees in the unit).

Number of names on eligibility list		25
Number of ballots cast	25	
Number of ballots marked in favour of applicant	18	
Number of ballots marked as opposed to applicant	7	

4807-62-R: United Steelworkers of America (Applicant) v. Noront Steel Construction Company Limited (Respondent) v. The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Intervener).

Unit: "all employees of the respondent at Sudbury, save and except foremen, persons above the rank of foreman, office and sales staff, persons who comprise the outside erection crew and students hired for the school vacation period."
(80 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 423)

Number of names on revised eligibility list		75
Number of ballots cast	73	
Number of ballots marked in favour of applicant	39	
Number of ballots marked in favour of intervener	34	

4979-62-R: International Chemical Workers Union (Applicant) v. Drug Trading Company Limited (Respondent) v. District 50, United Mine Workers of America (Intervener).

Unit: "all employees of the respondent at its warehouse at 6 Ontario Street, Toronto, save and except foremen, persons above the rank of foreman, office staff, and persons regularly employed for not more than 24 hours per week."
(213 employees in the unit).

Number of names on revised eligibility list		200
Number of ballots cast	173	
Number of spoiled ballots	2	
Number of ballots marked in favour of applicant	170	
Number of ballots marked in favour of intervener	1	

Applications for Certification Dismissed No Vote Conducted

2720-61-R: Milk and Bread Drivers, Dairy Employees Caterers and Allied Employees Local Union No. 647 (Applicant) v. Becker Milk Company Limited (Metropolitan Toronto plant) (Respondent). (18 employees).

The Board endorsed the Record as follows:

"Although the applicant has requested leave of the Board to withdraw its application herein, the Board, following its usual practice in such cases, dismisses the application."

4611-62-R: Sudbury General Workers Union, Local #101, Canadian Labour Congress (Applicant) v. The Great Atlantic & Pacific Tea Company Limited (Respondent).

Unit: "all employees of the respondent at its stores at Sudbury, save and except assistant store managers, persons above the rank of assistant store manager, office staff, persons regularly employed for not more than 24 hours per week, and students hired for the school vacation period."
(14 employees in the unit).

4717-62-R: Porcupine Transport Workers Union (Applicant) v. Scott Haulage Limited (Respondent). (14 employees).

(SEE INDEXED ENDORSEMENT PAGE

4947-62-R: Operative Plasterers & Cement Masons International Association of the United States & Canada Local Union #70, Sudbury (Applicant) v. Foundation Co. of Canada Limited (Respondent). (9 employees).

5029-62-R: Amalgamated Plant Guards, Local 1958, United Plant Guard Workers of America (Applicant) v. The Corporation of the County of Essex (Respondent). (25 employees).

(SEE INDEXED ENDORSEMENT PAGE 431)

5040-62-R: Teamsters Chauffeurs Warehousemen and Helpers Local No. 91, affiliated with International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers (Applicant) v. Lalonde Ready-Mix Concrete Limited (Respondent) v. International Union of Operating Engineers, Local 793 (Intervener). (18 employees).

The Board endorsed the Record as follows:

"As was announced orally at the hearing of this matter on January 9th, 1963, although the applicant has requested the leave of the Board to withdraw its application, the Board, following its usual practice in such cases, hereby dismisses the application."

5086-62-R: The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Applicant) v. Hotel Royale (Garson, Ontario) (Respondent). (4 employees).

5114-62-R: The Canadian Union of Operating Engineers (Applicant) v. Toronto Brick Co. Ltd. (Respondent) v. United Glass and Ceramic Workers of North America (Intervener). (4 employees).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for all stationary engineers and helpers employed at its Boiler Room at Don Valley Plant, Potter Road, Toronto.

The stationary engineers in the employ of the respondent are currently represented by the intervener and are part of an overall industrial unit which the intervener represents.

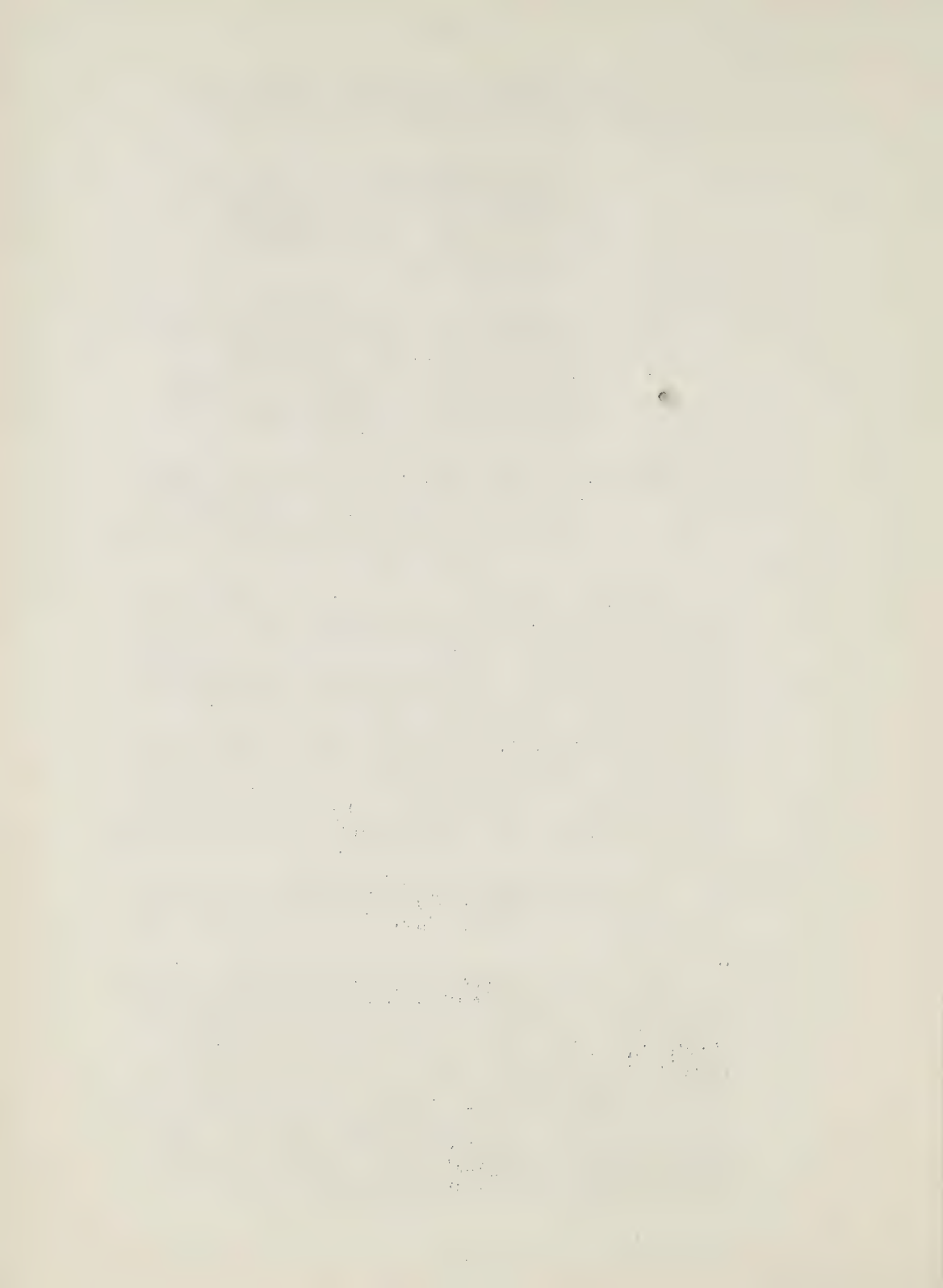
Counsel for the respondent submits that the bargaining unit proposed by the applicant is inappropriate for the following reasons:

- (i) The stationary engineers in the employ of the respondent have been bargained for by the intervener since the date of certification of the intervener by this Board on January 17, 1957.
- (ii) The collective agreement between the respondent and intervener effective September 1st, 1961, contains a separate wage schedule covering the classification of boilerman - watchman under which classification the stationary engineers are paid.
- (iii) The stationary engineers in the employ of the respondent do not constitute a craft unit by reason of the variety of duties that they are required to perform in executing their job function.

Counsel for the respondent also argues that this application, made on December 17th, 1962, is untimely by reason of the fact that the memorandum of agreement signed by the respondent and intervener on December 11th, 1962, which incorporates renegotiated terms of the collective agreement effective September 1st, 1961, constitutes a collective agreement. Alternatively, the September 1st, 1961, collective agreement has continued to be in effect due to the failure of the intervener to give notice of its desire to amend the agreement within the time limitations prescribed in the duration clause.

The representative of the intervener concurred in the submissions of counsel for the respondent.

The Board finds that the bargaining unit applied for the applicant is inappropriate by reason of the history of collective bargaining between the respondent and the intervener as evidenced by the continuous representation of the stationary engineers by the intervener since the date of certification and the separate wage schedule for the stationary engineers in the collective agreement. (See the Lily Cup Limited Case, O.L.R.B. Monthly Report, January, 1961, p. 370, and the Canada Foundries and Forgings Case (1961) C.C.H.



Canadian Labour Law Reporter, 116,203, C.L.S. 76-753). In making its finding the Board has taken into account the fact that both the respondent and incumbent union object to the bargaining unit applied for by the applicant. (See the Sheraton Brock Hotel Case, (1961), C.C.H. 116,205, C.L.S. 76-758).

The Board, therefore, is of the opinion that it should exercise its discretion under section 6 (2) of The Labour Relations Act and finds that the unit proposed by the applicant is inappropriate in the circumstances of this case.

In view of the Board's finding in the above paragraph it is not necessary to make a finding with respect to the timeliness of the application.

The application, accordingly, is dismissed."

5132-62-R: Canadian Union of Operating Engineers (Applicant) v. The Monarch Knitting Company Limited (Respondent) v. Textile Workers Union of America, Local 736 (Intervener). (3 employees).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for the stationary engineers employed by the respondent in its boiler and engineer rooms at its plant in Dunnville.

The stationary engineers in the employ of the respondent are currently employed by the intervener and are part of an overall industrial unit represented by the intervener.

The applicant argued that the stationary engineers employed by the respondent are entitled to be represented by the applicant union because of the recognized craft status of stationary engineers and further because pursuant to the collective agreement between the respondent and the intervener, the stationary engineers are required to work longer hours than the production employees in the respondent's plant.

The Board finds that the stationary engineers in the employ of the respondent are currently bound by a collective agreement between the respondent and the intervener and have been bargained for by the intervener since 1946.

The Board further finds that the collective agreement has a separate wage schedule covering the classifications of assistant engineer and shift engineer under which classification the stationary engineers are paid higher rates than any other employee in the bargaining unit.

The Board further finds that the intervener has processed a grievance on behalf of a stationary engineer to the satisfaction of the stationary engineers. The intervener and the respondent are currently negotiating a renewal of their collective agreement and pursuant to a request by a stationary engineer, the intervener is attempting to reduce the hours of work of the stationary engineers.

On previous renewals of collective agreements between the respondent and the intervener in 1957, 1953 and 1956, the stationary engineers received a larger increase than the other employees in the bargaining unit.

Under the current collective agreement, the stationary engineers enjoy seniority rights which would permit stationary engineers to bump other occupational classifications in the event of a lay off. However, they have never been required to take this action.

Having regard to the decisions of the Board in the Lily Cup Case (Ontario Labour Relations Board Monthly Report, January 1961 p. 370), the Canada Foundries and Forgings Case (1961) C.C.H. Canadian Labour Law Reporter ¶16,203 C.L.S. 76-753, the Automatic Electric (Canada) Limited Case, Board File #2331-61-R, and the history of collective bargaining between the respondent and the intervener as evidenced by the continuous representation by the intervener of the stationary engineers, the separate wage schedules for stationary engineers in the collective agreement, the community of interest and seniority rights of the stationary engineers and the opposition to the application by the respondent and the incumbent trade union, the Board is of the opinion that it should exercise its discretion under section 6(2) of The Labour Relations Act and finds that the unit proposed by the applicant is inappropriate in the circumstances of this case.

The application is therefore dismissed."

5134-62-R: The National Union of Public Employees (Applicant) v. Corporation of the County of Elgin (Respondent). (9 employees).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for a unit of employees of the respondent composed of all employees at the county jail of the respondent with certain exceptions not here relevant.

The Board finds that the respondent is a municipality as defined in the Department of Municipal Affairs Act and that it has declared pursuant to the provisions of section 78 of The Labour Relations Act R.S.O. 1950 c. 194 (now section 89 R.S.O. 1960, c. 202) that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. Pursuant to section 5 of the Penal Reforms Institution Act, the by-law of the respondent enacting this declaration was approved by the Minister of the Department of Reform Institutions in so far as it relates to a jail or lock-up.

In view of the action of the respondent in making such a declaration and the approval obtained from the Minister of the Reform Institutions, the Board has no jurisdiction to process this application further and the application is accordingly terminated."

5155-62-R: National Union of Public Employees (Applicant) v. Lakeshore District Board of Education (Respondent). (43 employees).

The Board endorsed the Record as follows:

"As the applicant failed to file form 9 as required by section 6 of the Board's Rules of Procedure this application is dismissed."

5170-62-R: National Union of Public Service Employees (Applicant) v. Alderlea Services Ltd. (Respondent).

Unit: "all employees of the respondent at St. Catharines, save and except foremen, persons above the rank of foreman and office staff." (34 employees in the unit)."

5200-62-R: Northern Electric Office Employee Association
(Applicant) v. Northern Electric Company Limited
(Respondent).

Unit: "all office employees of the respondent at its Communications Equipment Division in its Belleville plant, save and except engineers, supervisors, persons above the rank of supervisor, personnel department employees, one secretary to the works manager and one secretary to each of the department superintendents." (251 employees in the unit).

The Board endorsed the Record as follows:

"This is an application by the applicant for certification as bargaining agent for all office employees of the respondent at its Communications Equipment Division in its Belleville plant, save and except engineers, supervisors, persons above the rank of supervisor, personnel department employees, one secretary to the works manager and one secretary to each of the department superintendents.

The applicant is a party to a collective agreement with the respondent effective from February 28th, 1962 to February 27th, 1963 and the applicant has had a continuous bargaining relationship with the respondent since January 25th, 1952.

The recognition clause in the collective agreement between the parties which has been identical with the recognition clause in the previous collective agreement reads:

"The Company recognizes the Association as the exclusive bargaining agency for all office persons of the Communications Equipment Division - Belleville Plant, but does not include engineers, supervisors or persons employed in a confidential capacity."

It appears to the Board that the bargaining unit proposed by the applicant is for the same employees on whose behalf the applicant has bargained for continuously since 1952.

Having regard to the fact that there is a subsisting bargaining relationship between the applicant and the respondent for the employees for whom the applicant now seeks to be certified as bargaining agent, and for the reasons

for the decision of the Board in Loblaw Groceterias Company Limited, Hamilton, Ontario Case, (1944) D.L.S. 7-1115, the Board finds that no purpose would be served by processing this application further due to the fact that a certificate of the Board cannot add one iota of legality or sanctity to the bargaining relationship between the parties, nor can it add more status to the applicant as bargaining agent because in the circumstances of this case, the bargaining rights flowing from the collective agreement are of equal weight to the bargaining rights which would flow from a certificate of the Board for this applicant.

In view of these circumstances and in accordance with the provisions of section 45 of The Labour Relations Act, the Board is of opinion that the applicant has failed to make a prima facie case for the remedy requested and the application is therefore dismissed."

5244-62-R: Walker's Bakeries Ltd., Salesmen Employees Association (Applicant) v. Walker's Bakeries Ltd. Ottawa (Division of General Bakeries Ltd.) (Respondent) v. Milk & Bread Drivers, Dairy Employees, Caterers & Allied Emp. Local Union No. 647 (Intervener). (55 employees).

The Board endorsed the Record as follows:

"Although the applicant has requested leave of the Board to withdraw its application herein, the Board, following its usual practice in such cases, dismisses the application."

5249-62-R: United Steelworkers of America (Applicant) v. All Steel Rolled Products Limited (Respondent).

Unit: "all employees of the respondent at its plant in Scarborough, save and except foremen, persons above the rank of foreman and office staff." (2 employees in the unit).

Certification Dismissed Subsequent to Post-Hearing Vote

3275-61-R: International Association of Machinists (Applicant) v. Higgins and Burke Limited (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, salesmen and office staff." (19 employees in the unit).

Number of names on revised eligibility list	20
Number of ballots cast	20
Number of ballots marked in favour of applicant	5
Number of ballots marked as opposed to applicant	15

4416-62-R: United Brotherhood of Carpenters & Joiners of America, A.F.L. C.I.O. C.L.C. (Applicant) v. National Hardware Specialties Limited (Respondent) v. District 50, United Mine Workers of America (Intervener).

Unit: "all employees of the respondent at Dresden, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (68 employees in the unit).

Number of names on revised eligibility list		65
Number of ballots cast	65	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	28	
Number of ballots marked in favour of intervener	36	

4469-62-R: International Union of Operating Engineers, Local 866 (Applicant) v. The Religious Hospitallers of St. Joseph of Hotel Dieu of St. Catharines (Respondent).

Unit: "all stationary engineers and helpers of the respondent primarily employed in the operation of the heating and refrigeration equipment of the respondent at its hospital at St. Catharines, save and except chief engineer." (12 employees in the unit).

Number of names on revised eligibility list		9
Number of ballots cast	9	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	9	

4704-62-R: The Canadian Union of Operating Engineers (Applicant) v. Silverwoods Dairies Ltd. (Kitchener Branch) (Respondent) v. Retail, Wholesale and Department Store Union, Local 440, AFL:CIO:CLC (Intervener).

Unit: "all stationary engineers in the employ of the respondent at its plant in Kitchener, save and except persons regularly employed for not more than 24 hours per week and persons hired for the vacation period, relief or seasonal work." (4 employees in the unit).

Number of names on revised eligibility list		4
Number of ballots cast	4	
Number of ballots marked in favour of applicant	2	
Number of ballots marked in favour of intervener	2	

On November 20, 1962, the Board endorsed the Record in part as follows:

"The intervener opposes the application and submits that the Board should exercise its discretion under section 6, subsection 2 of The Labour Relations Act and dismiss the application in the light of the previous history of collective bargaining between the intervener and the respondent respecting the employees for whom the applicant seeks to become the certified bargaining agent. On the basis of previous decisions of the Board if this were the only factor to be considered then we have no doubt that the intervener's submission would prevail.

However, there are two additional factors in this case which must be considered. In the first place the representative of the respondent, in answer to a question put to him by the Board, stated that the respondent was not opposing the application, and that it was up to the employees to decide how they wished to be represented. This is a factor which the Board has taken into consideration in previous decisions. (See the Sheraton Brock Hotel Case, (1961), C.C.H. Canadian Labour Law Reporter, Volume I, 516,205; C.L.S. 76-758; Lily Cups Limited, O.L.R.B. Monthly Report, January, 1961, p. 370).

Secondly, regard may be had to the history of collective bargaining in the industry and in a particular establishment, (See the Sheraton Brock Hotel Case, supra). The respondent in this case carries on a number of operations throughout the Province. An examination of the certificates issued by the Board affecting the respondent and of the collective agreements on file with the Board to which the respondent is a party, reveals that in approximately thirty per cent of the operations conducted by the respondent where trade unions have bargaining rights, the stationary engineers are represented by craft unions. The incumbent trade union in this case represents employees in some eight locations. At two of these locations the engineers are represented separately by a craft union.

Thus, in viewing the operations of the respondent as a whole and again, in examining the locations where the incumbent has bargaining rights, there is clear evidence that organization has by no means been confined to industrial lines. On the contrary, there is considerable evidence of organization along craft lines extending over a period of at least twelve years.

Having regard to these factors and to the representations of the parties we find that all stationary engineers in the employ of the respondent at its plant in Kitchener, save and except persons regularly employed for not more than 24 hours per week, and persons hired for the vacation period, relief or seasonal work, constitute a unit of employees of the respondent appropriate for collective bargaining."

4714-62-R: International Chemical Workers Union A.F. of L.
C.I.O. C.I.U. (Applicant) v. The Scholl Mfg. Co. Limited
(Respondent).

Unit: "all employees of the respondent at its plant at 174 Bartley Drive in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff and students hired for the school vacation period." (43 employees in the unit).

Number of names on revised eligibility list		41
Number of ballots cast	41	
Number of ballots cast in favour of applicant	18	
Number of ballots marked as opposed to applicant	23	

4993-62-R: District 50, United Mine Workers of America
(Applicant) v. J. Anderson Smith Co. Limited (Respondent).

Unit: "all employees of the respondent at Newcastle, save and except foremen, persons above the rank of foreman and office and sales staff." (53 employees in the unit).

Number of names on revised eligibility list		52
Number of ballots cast	52	
Number of ballots segregated (not counted)	2	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	20	
Number of ballots marked as opposed to applicant	29	

Applications for Termination Disposed of During January 1963

4898-62-R: Silverstein's Bakery Limited (Applicant) v. Milk and Bread Drivers, Dairy Employees, Caterers and Allied Employees, Local Union 647, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (GRANTED). (21 employees).

(Re: Silverstein's Bakery Limited,
Metropolitan Toronto)

Number of names on eligibility list		21
Number of ballots cast	21	
Number of ballots segregated (not counted)	2	
Number of ballots marked in favour of respondent	1	
Number of ballots marked as opposed to respondent	18	

4904-62-R: Marguerite Dempsey (Applicant) v. Amalgamated Clothing Workers of America (Respondent). (GRANTED). (67 employees).

(Re: Deacon Brothers Limited,
Belleville, Ontario)

4968-62-R: Harley Lynn Agar (Applicant) v. United Steelworkers of America (Respondent) v. Canest Brushes Limited (Intervener). (GRANTED). (13 employees).

Number of names on revised eligibility list	9
Number of ballots cast	9
Number of ballots marked in favour of respondent	1
Number of ballots marked as opposed to respondent	8

5089-62-R: James W. Lewery (Applicant) v. Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 880, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America (Respondent). (DISMISSED). (15 employees).

(Re: London Furniture Co. Limited,
London, Ontario)

(SEE INDEXED ENDORSEMENT PAGE 437)

5115-62-R: Gordon K. Sommerville (Applicant) v. United Packinghouse Workers of America, AFL-CIO, CLC. (Respondent) (TERMINATED). (16 employees).

(Re: Delft Gelatin Canada Limited,
Trenton, Ontario)

The Board endorsed the Record as follows:

"Having regard to the representations made by the respondent to the Board in its letters dated January 16th and January 21st, 1963, the Board is satisfied that the respondent does not desire to continue to represent the employees of Delft Gelatin Canada Limited in the bargaining unit.

Pursuant to section 43(6) of The Labour Relations Act, the Board declares that the respondent no longer represents the employees of Delft Gelatin Canada Limited at Trenton for whom it has heretofore been the bargaining agent."

5151-62-R: Employees of Stoklosar Marble Quarries Ltd. (Applicant) v. United Steelworkers of America (Respondent) v. Stoklosar Marble Quarries Ltd. (Intervener). (DISMISSED). (9 employees).

(Re: Stoklosar Marble Quarries Ltd.,
Madoc, Ontario).

5172-62-R: C.S. Maule, Representative of remaining Members U.M.W.A. Local 13372 (Applicant) v. District 50, United Mine Workers of America (Respondent). (DISMISSED). (3 employees in the unit).

(Re: Canadian Industries Limited,
Nobel, Ontario).

The Board endorsed the Record as follows:

"Having regard to all the evidence and the representations made to the Board, the Board is satisfied that less than fifty per cent of the employees of Canadian Industries Limited at Nobel in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the respondent.

The application is therefore dismissed."

5203-62-R: Robert Neil Condie (Applicant) v. General Drivers, Local Union No. 989, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (DISMISSED). (9 employees).

(Re: Martin's (Pembroke) Limited,
Pembroke, Ontario).

Applications under Section 34(5) Disposed of During
January 1962

3032-61-M: United Brotherhood of Carpenters and Joiners of America, Local 1669 (Applicant) v. L. Boss Building and Remodelling (Respondent).

The Board endorsed the Record as follows:

"The question referred to the Board under section 34(5) of The Labour Relations Act is whether or not there is a collective agreement on foot binding The United Brotherhood of Carpenters and Joiners of America, Local Union 1669 (hereinafter referred to as the "union") and L. Boss, contractor.

The union and Boss entered into an agreement on January 14, 1960 (hereinafter referred to as the "short form agreement") by which they agreed "to be bound by all terms and conditions contained in the current agreement between the union and the Kenora and Rainy River District Contractors Association, and as it may be changed or renewed from time to time by negotiations and/or by lapse of time, to the same extent as though [Boss] has executed such agreement as a member of the Kenora and Rainy River District Contractors Association and such conditions are hereby made part of this agreement". The Kenora and Rainy River District Contractors Association (hereinafter referred to as the "Association") did not sign the short form agreement and was not a party to it in any way.

On January 15, 1960, the union forwarded a copy of the agreement between it and the Association to Boss. The Association agreement was made September 7, 1959, was executed by officers of the Association on behalf of the Association, and provided that it "shall become effective on the 1st day of April, 1959, and shall remain in effect until the 31st day of March, 1960". This agreement also provides as follows:-

Should either party desire to change, add to or amend this agreement. that party agrees to give to the other party written notice to the effect on or before the 31st day of December, 1959, or 90 days prior to the termination date of this agreement. --- Provided that no such notice is given, this agreement shall remain in effect from year to year. ---.

Negotiations between the union and the Association commenced during the spring of 1960 and, on April 24, 1961, the union made an agreement (hereinafter referred to as the "1961 agreement") with a party described as "The Kenora - Rainy River Contractors Association, Kenora, Ontario (hereinafter referred to as the 'Association') acting on behalf of the following member companies:-. The names of 13 firms are then listed and the following statement appears at the end of the list: "hereinafter sometimes respectively referred to as the 'Employer' or 'Employers'". This agreement is signed individually by each member named in the list but there are no signatures on this agreement on behalf of the Association as such.

William Sherman, business agent of the union, gave a copy of the 1961 agreement to Boss in April, 1961, and discussed it with him. Boss indicated to Sherman that he felt he was not bound by the 1961 agreement. On July 24, 1961, Sherman wrote to Boss concerning the use of "non-union men" on a project, requested an "advisory meeting" and referred Boss to section 4 of "collective agreement". In reply Boss, by letter dated July 26, 1961, stated that he was not a member of the Association and the agreement referred to was not binding upon him. On September 7, 1961, Sherman wrote to Boss again regarding an "advisory meeting". Having received no response from Boss, Sherman, on September 25, 1961, wrote to Boss requesting arbitration under "5.01 of the agreement and section 34 of The Labour Relations Act, R.S.O. 1960". Boss did not reply to this letter. On November 13, 1961, Sherman advised Boss that the Association had refused "to set an Advisory Committee on your behalf - - based on the reason that you do not hold membership in it". The union thereupon requested the Minister of Labour to appoint a member to an arbitration board on behalf of Boss under the provisions of section 34(4) of The Labour Relations Act.

In our view the short form agreement entered into by the union and Boss on January 14, 1960, into which they incorporated the terms of the Association agreement, is a collective agreement binding upon them. The issue for the Board thus becomes a question as to the duration of the short form agreement. This question must be determined in accordance with the duration clause of the Association agreement and subsection (1) of section 39 of The Labour Relations Act. If regard was had to the former, the short form agreement would have expired on March 31, 1960, subject to continuing in effect from year to year upon failure of either party to give 90 days' written notice to the other. However, having regard to section 39(1) of the Act, the short form agreement must operate for a period of one year from the date that it commenced to operate, that is, for a period of one year commencing January 14, 1960. It follows, of course, that in default of written notice in accordance with the duration clause of the Association agreement the short form agreement would remain in effect from year to year thereafter until such notice was given by one of the parties. There is no evidence before us that either party gave notice to the other, and, in the circumstances, we are of opinion that the short form agreement remained in effect for a further period of one year commencing January 14, 1961.

During the course of the Board's inquiry in this matter, a question arose as to whether Boss was bound by the terms of the 1961 agreement, that is, whether the terms of the Association agreement incorporated into the short form agreement had been amended by the 1961 agreement. This question relates to the terms of the agreement in effect between the union and Boss. In our opinion, this question does not come within the scope of the Board's authority under section 34(5) of the Act and would appear to be a matter for determination by the appropriate tribunal under subsection (1) of section 34.

Our finding on the reference, therefore, is that L. Boss, contractor, entered into a collective agreement with The United Brotherhood of Carpenters and Joiners of America, Local Union 1669 on January 14, 1960, that this collective agreement remained in effect until January 13, 1962, and that this collective agreement would continue in effect thereafter until terminated in accordance with its provisions in that respect."

4770-62-M: The North York Township Civic Foremen's Association, Local 711 (Applicant) v. The Corporation of the Township of North York (Respondent). (WITHDRAWN).

Applications for Consent to Prosecute Disposed of
During January 1963

4771-62-U: Local No. 18, United Brotherhood of Carpenters and Joiners of America (Applicant) v. The General Contractors Section of the Hamilton Construction Association and Builders' Exchange (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The fact that this Board, under section 74 of The Labour Relations Act grants its consent to the institution of a prosecution under the Act, does not, of course, constitute any indication of any opinion on its part as to the final merits of the matter. This case obviously raises questions of far-reaching implications and importance to labour-management relations. In our view there are such arguable questions of law for and against the proposition that the respondent's alleged conduct constitutes a violation of sections 12 and 69 of the Act to warrant the Board, in accordance with its policy, granting consent to the institution of a prosecution. In all the circumstances of this case, and having regard to the evidence presented

and to the established policy of the Board in such cases, we are constrained to grant consent to the applicant to institute a prosecution against the respondent for its alleged violation of sections 12 and 69 of the Act.

The Board consents to the institution of a prosecution against The General Contractors Section of the Hamilton Construction Association and Builders' Exchange, hereinafter called the respondent, for the following offence alleged to have been committed:

That contrary to sections 12 and 69 of The Labour Relations Act the said respondent did, between in or about March 22, 1962, and in or about September 4, 1962, and thereafter, fail to bargain in good faith and to make every reasonable effort to make a collective agreement in that the respondent threatened to refuse consummate and execute a collective agreement with the union unless the union undertook to admit as members certain superintendents and non-working foreman on conditions specified by the respondent."

Board Member R.W. Teagle dissented and said:

"I dissent, in my view the only party which made out a prima facie case for a violation of sections 12 and 69 was the respondent. As this application is not brought by the respondent but by the union, I would dismiss the application."

5075-62-U. Building Service Employees' International Union, Local 183 (Applicant) v. Trenton Memorial Hospital (Respondent). (WITHDRAWN).

5109-62-U: International Woodworkers of America (Applicant) v. Hanover Kitchens (Canada) Limited (Respondent). (DISMISSED).
(SEE INDEXED ENDORSEMENT PAGE 438)
COMPLAINTS UNDER SECTION 65 DISPOSED OF DURING JANUARY 1963

4082-62-U: Building Service Employees' International Union, Local 183, Belleville, Ontario (Complainant) v. Trenton Memorial Hospital (Respondent).

The Board endorsed the Record as follows:

"We are satisfied on the evidence presented that the employer, the Trenton Memorial Hospital, did on June 22nd, 1962, and contrary to The Labour Relations Act discriminatorily discharge William

McKinnon from his employment because of his participation in union activities.

On the date of his discharge from the employment of the respondent employer, McKinnon was employed as an orderly earning \$217.50 a month. The evidence indicates that immediately following his discharge, McKinnon made reasonable efforts to secure other employment in the Trenton area and for that purpose registered with the Unemployment Insurance Commission. On or about July 9th, however, he went with friends to New Brunswick where he obtained employment in August, 1962, for four weeks and earned \$120.00. At the end of August he returned to Ontario and again sought employment in the Trenton area but without success. He was later successful in obtaining employment as an orderly at a hospital in Toronto on or about September 19th. He was still working at this hospital when he gave evidence at the first hearing on November 29th, 1962. We are not satisfied on the evidence that McKinnon's trip to New Brunswick was either necessary or for the sole purpose of obtaining employment. On this basis we cannot be satisfied that he took all reasonable steps to mitigate his loss.

Having regard to all the circumstances of this case including the fact that the complainant did not establish that McKinnon took all reasonable steps to mitigate his loss, and to the fact that from September 19th to the date of the hearing he earned at least as much as he had been making prior to his discharge by the respondent, we believe that a fair assessment of his loss of wages and employment benefits from June 22nd, 1962, to November 29th, 1962, would be in the sum of \$250.00.

The Board's determination as to the action to be taken by the respondent in this case is as follows:-

- (1) As compensation for his loss of wages and employment benefits from June 22nd, 1962, to November 29th, 1962, the respondent shall forthwith pay William McKinnon the sum of \$250.00.
- (2) The respondent shall forthwith employ and reinstate William McKinnon in the same or like position with the same wages and employment benefits as he had and received prior to and up to the date of his discharge on June 22nd, 1962.

- (3) The respondent and the complainant shall meet forthwith with a view to agreeing on the amount of loss of earnings and other employment benefits, if any, now sustained or which may hereafter be sustained by William McKinnon between the date of the hearing on November 29th, 1962, and the date of his actual re-employment by the respondent. In default of an agreement between the parties within 7 days after the release of this determination or within such further period as the parties may mutually agree upon, the amount of any such further compensation payable, if any, will be determined by the Board upon the motion of either party for a further hearing for that purpose."

4372-62-U: Oil, Chemical & Atomic Workers International Union, on behalf of its Hamilton Local 16-633 (Complainant) v. United Gas Limited (Respondent).

(SEE INDEXED ENDORSEMENT PAGE 439)

4794-62-U: United Electrical, Radio and Machine Workers of America (UE) (Complainant) v. Tung-Sol of Canada Limited (Respondent) (Re: Mary Soulliere).

4819-62-U: United Electrical, Radio and Machine Workers of America (UE) (Complainant) v. Tung-Sol of Canada Limited (Respondent) (Re: Mrs. Sylvia Sims).

4905-62-U: United Electrical, Radio & Machine Workers of America (UE) (Complainant) v. Tung-Sol of Canada Limited (Respondent) (Re: Helen Peardon).

On January 14th, 1963 the Board determined that Mary Soulliere, Sylvia Sims and Helen Peardon, had been discharged contrary to The Labour Relations Act; that they were to be reinstated in the positions they held at the time of their discharge and that the parties were to meet with a view to agreeing on the amount of the loss of earnings that the aggrieved persons sustained.

Board Member R.W. Teagle dissented in respect of the three complaints and stated:

"I dissent. I must agree that from the evidence the company dealt with the aggrieved person in a harsh manner but I am not satisfied that the evidence shows the complainant was discharged for union activity contrary to the Act."

On January 30th, 1963 the Board further endorsed the Record as follows:

"The respondent in its letter dated January 22nd, 1963 requests the Board to reconsider its decision in this matter dated January 14th, 1963.

The respondent does not allege that new evidence has come to its attention that was not available to it at the hearing in this matter.

The respondent was given full opportunity at the hearing in this matter to adduce all the evidence and make such representations as the respondent now seeks to make and the respondent did in fact avail itself of this opportunity.

Having considered all the evidence adduced and the representations of the parties at the hearing, the Board on the basis of credibility, reached its decision dated January 14th, 1963.

In view of these circumstances, we do not consider it advisable to reconsider, vary or revoke the decision in this matter dated January 14th, 1963."

Board Member R.W. Teagle stated:

"Without deviating from my original dissent in this matter, I must agree with my colleagues that, as no new evidence has been presented, the request for reconsideration should be denied."

4910-62-U: Building Service Employees' Union, Local 204 (Complainant) v. Modern Building Cleaning Service of Canada Ltd. (Respondent).

5005-62-U: Retail, Wholesale and Department Store Union Local 915 (Complainant) v. Mike's Super Market Limited (Timmins) (Respondent).

The Board endorsed the Record as follows:

"The evidence as presented by the complainant at the hearing does not disclose any prima facie case that George Carbonneau was discharged from the employ of the respondent contrary to The Labour Relations Act.

The complaint is dismissed."

5018-62-U: International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC (Complainant) v. Generator & Electric Co. Ltd. (Respondent).

5026-62-U: International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC (Complainant) v. Generator & Electric Co. Ltd. (Respondent).

5032-62-U: Boot and Shoe Workers Union affiliated with the American Federation of Labour and the Congress of Industrial Organizations (Complainant) v. Susan Shoes Limited (Respondent).

5047-62-U: Boot and Shoe Workers Union, affiliated with the American Federation (Complainant) v. The Congress of Industrial Organizations (Complainant) v. Emille Shoe Limited (Respondent).

5069-62-U: Boot and Shoe Workers' Union affiliated with the American Federation and the Congress of Industrial Organizations (Complainant) v. Susan Shoes Limited (Respondent).

5112-62-U: The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Complainant) v. I.G.A. Foodliner (Sudbury, Ontario). (Respondent).

5173-62-U: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, General Truck Drivers' Union Local 938 (Complainant) v. Kessler Scrap Disposal Services (Respondent).

5178-62-U: Textile Workers Union of America (Complainant) v. Kayser-Roth of Canada Limited (Respondent).

5226-62-U: United Steelworkers of America (Complainant) v. St. Catharines Crushed Stone Limited (Respondent).

CERTIFICATION INDEXED ENDORSEMENTS

4717-62-R: Porcupine Transport Workers Union (Applicant) v. Scott Haulage Limited (Respondent). (DISMISSED JANUARY 1963).

The Board endorsed the Record as follows:

"On July 13, 1960, the Board certified General Truck Drivers' Union Local 938 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America as the bargaining agent of the employees of the respondent affected by this application. An application for a declaration terminating the bargaining rights of this trade union was made to the Board by employees of the respondent on March 14, 1962, and a declaration was issued by the Board on June 8, 1962. During March, 1962, the applicant held its first organizational meeting and, at this meeting,

employees of the respondent signed a document by which they agreed to pay dues out of their earnings to the applicant each month. This document was handed over to the employer and the employer deducted the dues and transmitted them to the applicant for March, 1962, and for each month thereafter. It is clear, therefore, that there was payment to the applicant union of the amounts deducted by the employer from the earnings of its employees before a collective agreement was entered into between the applicant and the respondent and, more particularly, during a period in which General Truck Drivers' Union Local 938 was the bargaining agent of these employees. In our view this brings the applicant union within the provisions of section 10 of The Labour Relations Act. Having regard to the provisions of section 10, we are precluded from certifying the applicant.

The application is accordingly dismissed.

Since the instant case marks the first appearance of the applicant union before the Board, the attention of the applicant is directed to the decisions of the Board in the Canadian Fabricated Products Case, (1955) C.C.H. Canadian Labour Law Reporter, 1955-59 Transfer Binder, ¶16,003; C.L.S. 76-470, and in the Dravo of Canada Ltd. Case, (1958) C.C.H. Canadian Labour Law Reporter, 1955-59 Transfer Binder, ¶16,109; C.L.S. 76-600."

4807-62-R: United Steelworkers of America (Applicant) v. Noront Steel Construction Company Limited (Respondent) v. The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Intervener).
(GRANTED JANUARY 1963).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for all employees of the respondent with certain exceptions not here relevant on October 31st, 1962.

The intervener was the incumbent bargaining agent of the employees of the respondent for whom the applicant now seeks to be certified as bargaining agent at the time this application was made.

This application came on for hearing in the first instance on November 15th, 1962 before a division of the Board consisting of J.D. O'Shea,

Deputy Vice-Chairman and Board Members D.B. Archer and H.F. Irwin.

No objection was taken at the hearing on November 15th, 1962 as to the composition of the division of the Board which heard the application. In its decision dated November 22nd, 1962, the Board directed that a representation vote be taken among the employees of the respondent in the bargaining unit determined by the Board to be appropriate and offered the employees of the respondent a choice between the applicant and the intervener.

Pursuant to the Board's direction, a representation vote was taken of the employees of the respondent in the bargaining unit on December 21st, 1962.

Following the taking of the representation vote in this matter on January 2nd, 1963, the intervener filed a statement of objections and desire to make representations within the time fixed under subsection 1 of section 44 of the Board's Rules of Procedure.

In its statement of objections and desire to make representations, the intervener alleged that the applicant failed to refrain from electioneering during the "silent period" immediately preceding the taking of the representation vote by the Board. No other objection was made by the intervener and the intervener did not challenge the composition of the division of the Board who heard this application and directed the representation vote.

Upon receipt of the statement of objections and desire to make representations from the intervener, this matter was listed for hearing by the Board for the purpose of inquiring into the objections filed by the intervener to the report of the returning officer.

This matter came on for hearing on January 16th, 1963 before the same division of the Board that heard the application for certification at the hearing of the Board held on November 15th, 1962.

The hearing on January 16th, 1963 was scheduled to commence at 9.15 a.m. pursuant to the notice of hearing served on all parties.

Having been advised that the intervener was not present, the Board waited until 9.25 a.m. on January 16th, 1963 before calling the case. When the case was called at 9.25 a.m., the applicant was the only party represented before the Board and the Board advised the applicant that it would recess until 9.45 a.m. to give the intervener and the respondent a further opportunity to appear.

When the case was called at 9.45 a.m., the applicant was represented and the intervener was also represented at that time by Mr. William E. Hall.

Immediately after the case was called, Mr. Hall, on behalf of the intervener, objected to the composition of the division of the Board which was hearing this application and in particular, challenged the right of Mr. D.B. Archer, a member representative of employees on the Board, to sit on this case. Mr. Hall alleged that Mr. Archer was prejudiced against the intervener and stated that there was an action pending before the Supreme Court of Ontario with reference to an allegation of prejudice in respect to Mr. Archer in another matter.

The Chairman of the division of the Board hearing this matter reminded the intervener that Mr. Archer had not been challenged when this application for certification came on for hearing in the first instance before this same division of the Board and this division of the Board had heard the application and had directed the vote. Mr. Hall was then asked by the Chairman of the division whether the reasons for the challenge now being made against Mr. Archer arose from any actions of Mr. Archer which took place between the date of the first hearing in this matter and the time of this hearing.

Mr. Hall advised the Board that the conduct of Mr. Archer to which objection is now being taken pre-dated the first hearing of this matter. The Chairman of the Division then turned to Mr. Archer and asked whether, having heard the objections of the intervener to his sitting on the division of the Board hearing this case, he wished to disqualify himself. Mr. Archer replied "no".

Before the Board could make any further comment or inquiry and before the Board had an opportunity to reach a decision on the challenge, Mr. Hall immediately advised the Board that he was withdrawing from the case and hurriedly left the counsel table.

Just before Mr. Hall reached the exit, the Chairman of the division advised Mr. Hall that the Board would proceed with the matters before it that morning, and would do so in Mr. Hall's absence if necessary.

Mr. Hall then left the Board Room with the comment that he would "go to court".

The applicant was then afforded an opportunity to make representations with respect to the intervener's challenge of Mr. Archer. The applicant made no representations on this point. The applicant then argued that even if the particulars of the charges as stated by the intervener in its statement of objections dated January 2nd, 1963 were proved, such evidence would not constitute a breach of the Registrar's "no propaganda" direction. In any event, since no evidence was adduced in support of the intervener's objections, the applicant moved that the objections of the intervener be dismissed and that the Board certify the applicant as bargaining agent of the employees of the respondent in the bargaining unit.

The onus rests on the intervener clearly to particularize the grounds for its challenge of Mr. Archer. However, other than a reference to a proceeding before the Supreme Court of Ontario in a completely unrelated case, the intervener made no representations whatsoever in support of its challenge. On this basis alone, we are not able to give effect to the challenge.

In any event the intervener did not see fit to challenge Mr. Archer at the first hearing on November 15th, 1962, or at the time the representation vote was directed by the Board on November 22nd, 1962, or in its statement of objections and desire to make representations of January 2nd, 1963, after the results of the representation vote became known, despite the fact that the events on which the challenge appears to be based arose long before the first hearing in this matter.

Paraphrasing the language of Freedmen, J.A., in Re Thompson and Local 1026 of the International Union of Mine, Mill and Smelter Workers, 1962, 35 D.L.R. 2nd. 333 at p. 340, the jurisdiction of the Board up to the hearing of January 16th, 1963 was, with full knowledge of all the facts so far as we can judge on what was presented to us, accepted and acknowledged by the intervener in this case. Had the result of the representation vote been favourable to the intervener, it is most unlikely that the intervener would have questioned the jurisdiction of the Board to dismiss the applicant. The intervener should not now, at this late stage of the proceedings, be permitted to make a challenge which if upheld would have the effect for all practical purposes of nullifying the vote and all prior proceedings in this matter to the great prejudice of the applicant, respondent and the employees."

4927-62-R: Rheem Employees Association (Applicant) v. Rheem of Canada Limited (Respondent) v. District 50, United Mine Workers of America (Intervener). (APPLICANT CERTIFIED, INTERVENER DISMISSED, JANUARY 1963).

On December 6, 1962, the Board endorsed the Record as follows:

"The intervener by telegram dated November 27th, 1962 notified the applicant and the respondent, for the first time, that it intends to allege that the applicant "is barred by section 10 of the Act in that the respondent has given advice and assistance to the applicant". No particulars of the alleged misconduct have been served or filed.

This allegation of misconduct is directed at both the applicant and the respondent.

The respondent at the hearing in this matter objected to the allegations being made at this late date due to the fact that the intervener admitted at the hearing that it had knowledge of the facts on which it is basing its charges, prior to November 13th, 1962, the date of the making of this application.

The Board is of opinion in the circumstances of this case that the intervener has not filed notice of its intention to allege misconduct on the part of the applicant and the respondent, promptly. In addition, the intervener has not filed particulars of the improper or irregular conduct of the applicant and the respondent pursuant to the provisions of section 48 of the Board's

Rules of Procedure and Regulations.

Having regard to the decision of the Board in the Fleck Manufacturing Limited Case, Board File No. 2735-61-R, March 1962, Ontario Labour Relations Board Monthly Report, at page 411, the Board will not permit the intervener to adduce evidence at the hearing of this application of the facts relating to this allegation of improper or irregular conduct on the part of the applicant or the respondent."

On January 22, 1962, the Board further endorsed the Record in part as follows:

"The applicant adduced evidence that it is a trade union within the meaning of section 1 (1) (j) of The Labour Relations Act and filed with the Board a copy of the Constitution of the applicant which was adopted at a meeting of the members of the applicant held on the 24th day of October, 1962. The intervener argued that the applicant is not a trade union within the meaning of The Labour Relations Act and in support of this argument referred to the membership provisions of the Constitution which provide in part that:

"all employees coming within the jurisdiction of Rheem Employees Association except foremen, persons above the rank of foreman and office staff, shall be eligible for membership.

all applications for membership shall be subject to the approval of the membership."

The jurisdiction clause of the Constitution of the applicant reads:

"The Rheem Employees Association shall take in and hold jurisdiction over all employees of Rheem of Canada Limited, save and except foremen, persons above the rank of foreman, and office staff."

The intervener argued that the respondent could effectively control the membership of the applicant by terminating the employee members of the applicant.

The only object of the applicant's constitution is to protect and advance the interests of all members of the association and to regulate relations between the employer and the employees within the jurisdiction of the association. It is therefore apparent that the members of the applicant are only interested in being members while they maintain an employment relationship within the respondent. The applicant if certified, can take the necessary steps to protect the employment of its membership in the same manner as any other bargaining agent.

The intervener also argued that due to the fact that none of the officers of the intervener had subscribed to the pledge provided for in the constitution they could not enter upon the duties of their respective offices. The officers of the applicant were duly elected by the membership and were specifically authorized to make application for certification by the membership. The application presently before the Board made by the applicant is the only act of the officers with which we are here concerned and since it was specifically authorized by the membership, the Board at this time is not concerned with the fact that the officers have not as yet subscribed to the pledge of office.

The intervener further argued that no meetings of the executive Board and no meetings of the membership have been held since October 24th, 1962 as required by the constitution. As previously stated, the constitution was adopted by the membership on October 24th, 1962 and this application for certification was made by the applicant on November 13th, 1962. This matter came on for hearing in the first instance on November 28th, 1962 and the hearing was adjourned until January 3rd, 1963. The applicant stated that it did not see fit to call a further meeting until such time as the Board reached a decision with respect to this application.

Having regard to the fact that no bargaining relationship exists between the applicant and the respondent and the fact that this application was made within the first month of the applicant's existence and that none of the members have complained about the failure to hold meetings as required by the constitution during the period that this application has been pending, we find that

the failure to hold meetings in these circumstances does not adversely affect this application.

The proof of membership filed by the applicant in this case is in the form of applications for membership signed by employees of the respondent together with countersigned receipts indicating a payment of \$1.00 in each case. This evidence of membership is in substantially the same form as evidence of membership accepted by the Board in the usual application for certification by a trade union. It appears, that although the constitution of the applicant requires that all applications for membership in the applicant shall be subject to the approval of the membership, in some cases formal approval was not given by the membership. The Board does not require proof approved and accepted by a trade union prior to the filing of the documentary evidence of membership on an application for certification. If such formal approval was required by the Board, the Board would also require evidence that the members of a trade union have subscribed to the pledge or oath of membership as required by the constitutions of most trade unions, and this has never been the requirement of the Board in determining the membership position of an applicant.

Having regard to all the evidence we therefore find that the applicant is a trade union within the meaning of section 1 (1) (j) of The Labour Relations Act.

The Board further finds that the intervener is a trade union within the meaning of section 1 (1) (j) of The Labour Relations Act."

Board Member E. Boyer dissented and said:

"I dissent. In my opinion the status of the applicant as a trade union has not been proved. At the hearing it was established in evidence that although an organization meeting was held on October 24th, 1962 and at that meeting officers were elected, there has been no pledge or oath taken by the executive, no executive meetings held since the organization meeting, nor have any committees been appointed. At the organization meeting the only item or regular business was the authorizing of the executive to make the present application.

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A witness for the applicant stated at the hearing that until the results of the application were known there would be no meetings or activities of any kind with respect to the applicant. The witness said that if the applicant were not certified there would be no more meetings, and that the association would have no meaning.

It is clear that the formation of the applicant and its continued existence are entirely dependent on the success of the present application. In view of the evidence I find that the applicant is a conditional organization without substance and that if the present application is not successful it would have no further active existence. I would dismiss the application."

5029-62-R: Amalgamated Plant Guards, Local 1958, United Plant Guard Workers of America (Applicant) v. The Corporation of the County of Essex (Respondent). (DISMISSED JANUARY 1963).

The Board endorsed the Record as follows:

"The applicant made application for certification of a unit of employees of the respondent consisting of all guards and matrons with certain exceptions not here material, at the Essex County Jail.

The jurisdiction of the International Union, United Plant Guard Workers of America established in Article V of its constitution as amended May 5th, 1961, reads:

"The International Union, United Plant Guard Workers of America shall have the power to organize and hold jurisdiction over all Plant Guards, including Fire Protection and all other employees performing plant protection activities in industrial and commercial plants, buildings, or other property throughout the United States and Canada."

Article VI, Section 2 of the constitution which defines "Plant Guards" reads:

"The term "Plant Guards" shall include any person whether custodial or monitorily, hired to protect the property of the employer or its clients, and/or to protect the safety of persons on the employer's or clients premises."

The primary function of jail guards and matrons is to maintain inmates placed in their custody within the confines of the jail in question. Of course, auxillary to this function is a responsibility for the safety of the inmates and the protection of jail property. "Plant Guards", however, by the above definition are primarily engaged in the protection of property and providing for the safety of persons who come upon the premises concerned. Moreover, Article V, quoted above, confines the jurisdiction of the applicant to persons performing plant protection activities in industrial and commercial plants, buildings, or other property. In the context of the sentence, "other property" appears to mean industrial and commercial property. Jails clearly do not fall within this definition.

For the reason given in paragraph 3, the Board finds that the jurisdiction of the applicant is not sufficiently broad to include jail guards and matrons within its purview.

The application, accordingly, is dismissed."

5068-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Ball Brothers Limited (Respondent).
(GRANTED, JANUARY 1963).

The Board endorsed the Record as follows:

"In this case the Board has heard considerable evidence and argument, both oral and written, on the question of the "geographic area" appropriate for inclusion in the description of the bargaining unit. As a result an adjournment of the first hearing was necessary as was that of a second proposed hearing. Following the second hearing further time elapsed while written submissions were exchanged.

Because some of the submissions of the parties appear to go beyond the principles outlined in the Andeen Construction Limited case, Board file number 4924-62-R, O.L.R.B. Monthly Report, November, 1962 and because it is important that labour and management alike understand the present position of the Board, the attention of all persons in the construction industry is drawn to the following passages from the decision of the Board in the Andeen Construction Limited case.

"Since the coming into force of section 92(1) of The Labour Relations Act there has been some uncertainty among both unions and employers as to the effect of the words 'geographic area' included in the section. No guide is given in the legislation itself. However it is no secret that the legislation affecting the construction industry was enacted as a result of the Report of the Royal Commission on Labour-Management Relations in the Construction Industry, otherwise known as the Goldenberg Report. On page 29 of the Report it is stated:

'The policy of the Board in de-limiting the area to be covered by a certificate is to accept the prevailing pattern of bargaining as the yardstick. In the absence of such a pattern, it has resorted to the 'in and out of' unit, that is, a unit consisting of the employees of an employer in a designated municipality and who perform work either in such municipality or in any place outside to which they may periodically be assigned with the understanding that they would normally return or look to such municipality for re-assignment'.

This, in so far as it went, accurately set out the general policy of the Board on these matters up to the coming into force of the amendments to The Labour Relations Act affecting the construction industry in August, 1962.

Since August the Board has been faced with a number of applications in which the problem of 'geographic area' has arisen. In dealing with the problem the Board has not departed from the policy referred to above although it should be noted that in some circumstances the Board has granted a unit 'at' a given area rather than 'working in or out of' a designated location.

In a number of recent cases the Board has made it clear that it will have regard to the pattern of bargaining in an area. See for example Ball Brothers Limited, File No. 4610-62-R; Newman Brothers Construction Limited, File No. 4615-62-R; Mabco Construction Company Limited, File No. 4726-62-R. However, as was pointed out in the Ball Brothers Limited case

(see reconsideration of decision dated November 14, 1962), other factors may well be taken into consideration in a proper case.

In the absence of clear cut guide lines in the legislation itself, we wish to make it clear that at this stage the Board is not going to depart nastily from its previous policies, other than, of course to follow the legislative direction with respect to project applications. In our opinion this is a field in which the parties themselves ought to make every possible effort to work out solutions. As we understand it, this is one of the matters being discussed by the Joint Labour Management Conference for the Construction Industry of Ontario. Until the parties themselves have had an opportunity to attempt to resolve their differences, the Board does not intend to depart from its well established policies. Should the parties be unable to come to some kind of agreement or understanding, within a reasonable period of time, the Board may then undertake a review of its policy in the light of its experience and the legislative direction in the recent amendments to The Labour Relations Act."

At the present time, so far as we are aware, the Joint Labour Management Conference for the Construction Industry of Ontario is still considering inter-alia, the problem of what "geographic area" should be covered by collective agreements. Again, so far as we are aware, this matter is still an active one before the Conference; in fact we are informed that the matter is to be brought shortly before the Conference as a whole after having been considered by a sub-committee. In these circumstances therefore we can only repeat what was said in the Andeen case, that we do not intend to depart, at this time, from the Board's well established policies.

This in our view disposes of the argument raised by the respondent relating to "Labour Market Areas", which incidentally we understand to be a matter before the Conference. It is clear that the concept of a "Labour Market Area" is a new one and in any event it is not one which the Board could adopt without a great deal of research. Certainly in the present case there is no evidence before the Board as to what constitutes a "labour market area", or "areas", in the geographic area sought by the respondent, even assuming we accepted the respondent's definition of "labour market area".

In a sense our intention not to depart from well established policies also disposes of the respondent's submission respecting union security clauses and section 3 of The Labour Relations Act. It is quite clear that before the construction industry amendments were enacted the Board granted certificates covering substantial areas. Where it was satisfied that this was the pattern of collective bargaining. These certificates were issued covering single and multiple counties and, in Northern Ontario, covering the District of Thunder Bay. If the submission of the respondent was to be accepted it would mean a departure from well established policies, which, we repeat, were in existence before the enactment of the construction industry amendments.

While it may therefore not be necessary to deal with the submissions of the applicant on this point its arguments dealing with "degree" and section 96 are ones which it may be difficult to overcome should the Board decide to reconsider its present position at a later stage. At the present time we cannot refrain from observing that the argument of the respondent respecting union security, if valid, would apply with equal force to "labour market areas" as well as an area granted by the Board on the basis of collective bargaining. The legislative answer to the problem, it seems to us, is to be found in section 96 of The Labour Relations Act.

The question in the present case thus resolves itself into what if any pattern of collective bargaining has been established in the area which the applicant claims to be appropriate. Whether one looks to the pattern over a period of years or to the prevailing pattern, it is clear that there is little uniformity. In the period 1956-1958 the Central Ontario District Council of Carpenters entered into a number of collective agreements for areas the same as or approximating the area sought by the applicant in the present case, namely, the alleged jurisdictional area of all the locals composing the Central Ontario District Council. Of 10 collective agreements filed for this period none is currently in force; three were for the area sought in the present application; the remaining 7 were for substantial parts of the same area. No explanation was offered as to why the seven were not for the same area as the three. The 10 agreements in question were all signed by non-resident contractors. There is no collective agreement filed covering the area or approximate area sought which has been signed

by a resident contractor. It should also be noted that there is no written statement before the Board substantiating the allegation that the area sought is the jurisdictional area assigned to the locals comprising the Central Ontario District Council. See M. Sule Construction Ltd. Board file number 4890-62-R, O.L.R.B. Monthly Report, November, 1962; Welcon Limited, Board file number 5028-62-R, O.L.R.B. Monthly Report, December, 1962.

There is also evidence before the Board respecting 17 recent collective agreements entered into by the Central Ontario District Council or locals comprising the Council. None of these agreements are for an area in any way comparable to that sought in the present application. The largest covers a two-county area remote from Collingwood which is the site of the job presently affected by this application. Most of the agreements cover Townships, cities or single counties. The employers who are parties to these agreements include residents and non-residents. There is no discernible pattern to be found in the geographic areas covered by the agreements whether entered into by a local or by the Central Ontario District Council. Thus local 1450 has agreements covering both the City and County of Peterboro and the counties of Victoria and Peterboro. The Central District Council has entered into agreements covering Simcoe County as well as the township of Orillia and Barrie and a 20 mile radius, the latter two areas fall within Simcoe County. In addition locals 2482 has a collective agreement covering the Townships of Tiny and Tay and local 1304 an agreement for the Township of Orillia, which areas are also within Simcoe County. There is thus not even a well established pattern for Simcoe County.

It is argued by the applicant that the agreements show that the locals and the District Council have agreements covering the major portion of the nine counties or parts there and three Districts, or parts thereof which the applicant contends is an appropriate area and that in granting such an area the Board would not be making much of a departure from the practice it has been following. The applicant relies on the decision in Ball Brothers Limited case, Board file number 2610-62-R, O.L.R.B. Monthly Report, October, 1962, wherein the Board said "in

examining the history of collective bargaining in an area the Board has not distinguished between an international and a local or a district council of its locals."

However it is clear that the situations are not comparable. In the earlier Ball Brothers Limited case the district council concerned had a collective agreement covering the whole area sought with a large number of employers. Moreover it was the council which had the agreements, not as have, the locals and the councils having bits and pieces of the whole area sought by the applicant.

In our judgment the situation in the present case is more analogous to that outlined in the M. Sule Construction Ltd. case, supra. In that case local 2480 (one of the locals making up the Central Ontario District Council) sought to establish Simcoe County as a appropriate area but failed to establish any established pattern of bargaining in the area. So in this case the applicant, for analogous reasons, has failed to establish an established pattern of collective bargaining for the area it seeks.

A certificate will issue to the applicant."

TERMINATION INDEXED ENDORSEMENT

5089-62-R: James W. Lewery (Applicant) v. Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 880, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America (Respondent). (DISMISSED JANUARY 1963).

(Re: London Furniture Co. Limited,
London, Ontario).

The Board endorsed the Record as follows:

"The evidence before the Board is that the applicant is not an employee in the bargaining unit determined in the Board's certificate dated June 30th, 1961. Subsection 1 of section 43 of The Labour Relations Act provides as follows:-

If a trade union does not make a collective agreement with the employer within one year after its certification, any of the employees in the bargaining unit determined in the certificate may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit.

Having regard to the provisions of subsection 1 of section 43 of the Act, the application is therefore dismissed."

PROSECUTION INDEXED ENDORSEMENT

5109-62-U: International Woodworkers of America (Applicant)
v. Hanover Kitchens (Canada) Limited (Respondent).
(DISMISSED).

The Board endorsed the Record as follows:

"The applicant was certified as bargaining agent for certain employees of the respondent on the 19th day of January, 1954. Conciliation services were granted to the parties on the 10th day of June 1954 and following the appointment of a conciliation Board the report of the conciliation Board was released to the parties in October, 1954. At that time the name of the respondent was Hanover Wood Products Limited, however, the name of the respondent was changed by supplementary Letters Patent in 1959 and the change of name of itself did not destroy any bargain rights which may have existed.

From 1954 to October 24th, 1962, the applicant made no attempt to bargain with the respondent with a view to negotiating a collective agreement. In October, 1962 the applicant served notice upon the respondent of its desire to negotiate a collective agreement. On November 7th, 1962 the applicant forwarded to the respondent a proposed collective agreement which contained many new and greater demands which had not previously been proposed in the original negotiations between the parties which took place in 1954.

The applicant offered no excuse for the long delay between 1954 and 1962 during which it did not seek to bargain with a view to negotiating a collective agreement with the respondent and there was no evidence that the respondent placed any obstacle in the way of the applicant to prevent its bargaining or attempting to bargain for a collective agreement.

The applicant in this application requests the consent of the Board to institute a prosecution against the respondent for the following offence alleged to have been committed:

that the said respondent did contrary to section 12 of The Labour Relations Act on

or about the 10th day of November, 1962, refuse to bargain and make a collective agreement with the applicant.

Having regard for the reasons for the Board's decision in the Guelph Cartage Case, C.L.S. 76-479, and to the fact that the applicant slept on its rights for a period of eight years without attempting to negotiate a collective agreement and the fact that there was no obstacle to collective bargaining, the Board finds that the applicant has abandoned the bargaining rights which the applicant obtained as defined in the Board's Certificate dated January 19, 1954 and the applicant no longer represents the employees of the respondent at Hanover for whom it has heretofore been the bargaining agent.

The application for consent to prosecute the respondent for its refusal to bargain to make a collective agreement with the applicant is therefore dismissed."

SECTION 65 INDEXED ENDORSEMENTS

4372-62-U: Oil, Chemical & Atomic Workers International Union, on behalf of its Hamilton Local 16-633 (Complainant) v. United Gas Limited (Respondent). (DISMISSED JANUARY 1963).

The Board endorsed the Record as follows:

"It is alleged in the complaint that the respondent contravened the provisions of section 59 (1) of The Labour Relations Act by refusing to continue to deduct union dues from the pay of its employees before seven days had elapsed after the release of the report of the Conciliation Board. While the complaint in its original form alleged certain other violations of section 59 (1), counsel for the complainant indicated at the hearing that he was not proceeding with them as they had been settled upon the execution by the parties of a collective agreement.

The form of complaint does not mention the names of the persons alleged to have been aggrieved by the respondent's refusal to continue to deduct union dues. Instead, the union "complaints that - - all employees of United Gas Limited save and except non-working supervisory staff and office staff, for whom it holds bargaining rights have been dealt with contrary to The Labour Relations Act".

Also in paragraph 2 (a) of the form of complaint, opposite the printed words of the form, "names of aggrieved persons" the complainant has inserted the words, "all employees of the Respondent save and except non-working supervisory staff and office staff".

Counsel for the respondent urges us to interpret the complaint as being brought on behalf of and as naming "the bargaining unit" as the aggrieved person. On this premise he argues that as "a bargaining unit" is only an aggregate of persons and not an entity known to the common law nor constituted as such under section 65 of The Labour Relations Act, the complaint is ill-conceived and must be dismissed. He argues also that the complaint must be dismissed on the ground that it does not comply with section 35 (c) of the Board's Rules of Procedure, which states that the complaint "shall contain" "the name of each person aggrieved". Further, he argues that section 59 (2) affords the union an alternative forum for relief before a Board of Arbitration and that on the basis of past precedents of this Board it should exercise its discretion, and decline to entertain the complaint.

The plain words of the complaint manifestly refer to and identify the aggrieved persons as all the individuals who were in the bargaining unit at the times indicated. In our view the complaint does not purport to hold out or name the "bargaining unit" as a personality separate and distinct from its member constituents as the aggrieved person. While the complaint does not comply with the literal requirements of section 35 (c) of the Board's Rules of Procedure in the sense that the specific names of the aggrieved individuals are not stated, we are compelled to infer in the absence of anything to the contrary, that the identity of such persons must be well known to the respondent and would be readily available to the field officer if required by him in the exercise of his statutory functions. While, because of our decision on other grounds stated hereinafter, it is unnecessary for us to reach any definite conclusion on the matter, we believe that much can be said for the position that, in all the particular circumstances of this case, the failure of the complainant to comply with the literal requirements of section 35 (c) of the Board's Rules of Procedure is not fatal to the complaint but at most constitutes

a technical omission which could readily, and without prejudice to the respondent, be corrected by amendment.

Section 59 (2) of the Act makes it abundantly clear, however, that either of the parties to these proceedings is entitled to refer the matter which the complainant is asking this Board to decide, to a Board of Arbitration as if the collective agreement under and by virtue of which the union dues were deducted was still in operation. It is the well-established practice of this Board, that where the conduct complained of as constituting a basis for relief under section 65 of the Act is properly the subject matter of a grievance under a subsisting collective agreement, that as a general rule, this Board should decline to inquire into the grievance under section 65 of the Act. The Board's practice recognizes that it is more in character with the functions of the collective bargaining process as envisaged by the legislation if the parties to a grievance arising under a collective agreement are left to utilize the procedures and remedies contemplated by their agreement. In this respect the parties ought not to be allowed to circumvent these procedures and remedies by the simple expedient of submitting the grievance to The Labour Relations Board in the guise of a complaint under section 65. (See, The National Showcase Company Case, (1960) C.C.H. Canadian Labour Law Reporter, 16,185, C.L.S. 76-715; Dominion Stores Ltd. Case, Board File No. 2858-61-U; Wallace Barnes Company Case, (1961) C.C.H. Canadian Labour Law Reporter, 16,198, C.L.S. 76-742; Canadian John-Manville Company Limited Case, Board File No. 4109-62-U, Monthly Report, Ontario Labour Relations Board, August, 1962, p. 173; Heist Industrial Services Case, Board File No. 5048-62-U.) While the collective agreement between the parties in the instant case is no longer in operation, the effect of section 59 (1) of the Act is to preserve the terms or conditions of employment provided therein. Each party is prohibited without the consent of the other, from altering or changing those terms or conditions until the occurrence of the events prescribed in paragraphs (a) and (b) of section 59 (1).

The legislature has made the questions in dispute in this case the subject matter of inquiry and determination by a Board of Arbitration in the same way as a grievance under the collective agreement. In our view, and apart from any other consideration, it is more in keeping with the functions of the collective bargaining process if the parties to

this complaint are required to submit their differences to a Board of Arbitration as provided in section 59 (2) in the same way as they would had the matter arisen as a grievance under an existing collective agreement.

The complaint is therefore, dismissed."

4522-62-U: Lumber and Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters and Joiners of America (Complainant) v. George Feniuk (Respondent).
(GRANTED OCTOBER 1962).

On October 25, 1962 the Board endorsed the Record as follows:

"The evidence discloses that on or about Sunday, September 9th, 1962, David Beardy and Edward Linklater, employees of the respondent, left the respondent's camp to travel to Toronto to testify as witnesses on behalf of the union in a proceeding before the Board. These employees did not give any prior notice to the respondent that they would be absent from work for this purpose. A union representative, A.R. McDowell, however, whose entry to the camp had been barred by the respondent, did make certain unsuccessful attempts on Sunday, September 9th, to inform the respondent that Beardy and Linklater were going to Toronto to appear as witnesses. Finally, on Sunday, September 9th, McDowell telephoned the residence of one Abe Bergon, who is reputed by the employees to be a foreman and who on the evidence obviously exercises some managerial authority for the respondent. As Bergon was not there, McDowell left a message with his wife that Beardy and Linklater were to appear as witnesses in Toronto in a proceeding before the Board and that they would not be back to work until Thursday, September 13th. One of the union's witnesses in the instant case testified that he overheard Bergon say to other employees on Monday, September 10th, something to the effect, "Dave and Eddy went to Toronto for the union man. Those guys when they come back will get no more jobs." It seems obvious that Bergon received McDowell's message and we must infer that he conveyed it to the respondent.

While the respondent may have had good cause and provocation to discharge these two employees for absenting themselves from work without advance notice, we find on all the evidence before us that

the real and motivating cause of their dismissal was that they supported the union and went to Toronto to testify on its behalf in proceedings before the Board. In determining the true reason for his dismissal of these two employees, it is particularly significant to keep in mind the fact that Feniuk had no hesitation, as he did, to discriminate against other employees for their union activities and affiliations. Indeed, according to the evidence before us, he went so far as to close down his woods operations for a week for the express purpose, as he said, "to get rid of the union." When the discharges of Beardy and Linklater are viewed in the context of these other incidents of active union hostility and discrimination, the conclusion is inescapable that Linklater and Beardy were dismissed in contravention of the Labour Relations Act. Further, although he attended the hearing no evidence by way of explanation for these discharges was offered by the respondent.

Having regard to the amount of their wages prior to their discharge on Thursday, September 13th, 1962, and to all the other circumstances of this case, including their abrupt departure from the camp without giving any prior notice to their employer and to their duty to mitigate their loss, we believe that a fair assessment of their loss of earnings and employment benefits from the date of their discharge to October 15th, 1962, the date of the hearing, would be in the sum of \$75.00 each.

The Board's determination as to the action to be taken by the respondent in this case is as follows:-

- (1) As compensation for their loss of wages and employment benefits from September 13th to October 15th, 1962, the respondent shall forthwith pay David Beardy and Edward Linklater each the sum of \$75.00.
- (2) The respondent shall forthwith employ and reinstate David Beardy and Edward Linklater in the same or like positions with the same wages and employment benefits as they had and received prior to and up to their discharge on September 13th, 1962.
- (3) The respondent and the complainant shall meet forthwith with a view to agreeing on the amount of loss of earnings and other employment benefits, if any, sustained by

these two employees between the date of the hearing on October 15th, 1962, and the date of their actual re-employment by the respondent. In default of an agreement between the parties within 7 days after the release of this determination or within such longer period as they may mutually agree upon, the amount of such further compensation payable, if any, will be determined by the Board upon the motion of either party for a further hearing for that purpose."

On January 3, 1963 the Board further endorsed the Record as follows:-

The evidence presented at the hearing on December 11th, 1962, discloses that contrary to the Board's determination of October 25th, 1962, whereby the respondent was ordered to employ and reinstate David Beardy forthwith, the respondent did not employ and reinstate David Beardy until November 1st, 1962.

The evidence also discloses that the parties did not make any agreement as to the amount of compensation, if any, payable to David Beardy for his loss of wages and employment benefits from the date of the hearing on October 15th, to the date of actual re-employment on November 1st, 1962.

While the respondent, George Fenikuk, was duly served with notice of the hearing held on December 11th, 1962, for the purpose of determining the amount of compensation, if any, payable to David Beardy for the period from October 15th, to the date of re-employment on November 1st, 1962, he did not appear and was not represented at this hearing.

On all the evidence before us we find that David Beardy suffered loss of wages and employment benefits from October 15th, to November 1st, 1962, in the sum of \$174.00.

In addition to the sum of \$75.00 which the Board ordered the respondent to pay to David Beardy in its determination of October 25th, 1962, we hereby order the respondent forthwith to pay to David Beardy, the further sum of \$174.00 as compensation for his loss of wages and employment benefits for the period from the date of the last hearing, October 15th, to November 1st, 1962, the date of his actual re-employment by the respondent."

REQUEST TO REVOKE DECISION

3774-62-R. United Steelworkers of America (Applicant) v. International Harvester Company of Canada, Limited (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener).

On January 21, 1963 the Board endorsed the Record as follows:

"The respondent has requested the Board to revoke its decision dated December 6th, 1962 in this matter. The respondent objects to the bargaining unit found by the Board to be appropriate in this matter and argues that certain factors upon which the majority of the Board rely in establishing the appropriate bargaining unit are not based on evidence placed before the Board at the hearing. In addition, the respondent argues that certain factors are only correct in part and while some factors upon which the Board relies are correct, no weight ought to be given to such factors.

The first factor questioned by the respondent to which the majority of the Board saw fit to give weight was based entirely upon the evidence.

The second factor to which the respondent took exception is based upon the evidence and although there is a valid reason for the physical separation of the employees concerned and such reason does not of itself have anything to do with the appropriateness of the bargaining unit, the fact remains that the employees are physically separated from the other employees in the general office which the respondent claims should be included in the appropriate bargaining unit.

The third factor to which the respondent takes exception is again based on the evidence and although it appears that the respondent misinterpreted the meaning of the Board's finding, the fact remains that there is a high degree of supervision within the systems and data services centre in Hamilton and by this finding, the Board found that there is one person in charge of the department who reports directly to the treasurer of the company and not to some other intermediate person in management such as an office manager.

The next factor which the Board considered and to which the respondent takes exception is the fact that the same person supervises the employees as before. The respondent advises that this statement is not correct and that a new supervisory

employee in a newly created position is now responsible for data services work. There was no evidence to this effect at the hearing and the Board in reaching the conclusion which it did, did so on the basis that the Board was told that all of the tabulating department was moved from the Hamilton Works Office and now forms the data services centre. From this evidence the Board inferred that not only the employees but the supervisors of these employees were moved from the tabulating department to the data services centre.

The next four factors to which the respondent takes exception are admitted by the respondent to be based on the evidence.

The final factor which the Board considered and to which the respondent takes exception is that the employees as a group were formerly part of the bargaining unit represented by the applicant for about eleven years. The Board reached this conclusion after drawing a reasonable inference from the facts that the applicant formerly bargained for the employees in the tabulating department, the tabulating department was part of the Hamilton Works office unit and the applicant was certified in 1951 as bargaining agent for all office employees of the respondent at its Hamilton Works. There was no evidence at the hearing that the tabulating department did not in fact come into existence until 1958 and it was not until this later date that the applicant became the bargaining agent for the employees in the tabulating department. It now appears that the applicant was the bargaining agent for the employees in the tabulating department for approximately four years rather than eleven years, however it was their bargaining agent from the time the tabulating department came into existence.

While no one factor to which the majority of the Board gave weight is conclusive, the majority of the Board in reaching its decision had regard to all the factors enumerated and determined the appropriateness of the bargaining unit. Although the majority of the Board may have been in error with reference to one of the factors as a result of an incorrect inference it drew from the evidence, and partially in error with reference to another factor from a reasonable inference that was drawn from the evidence, the Board is of opinion that the new evidence submitted by the respondent, which was

available at the time of the hearing, is not sufficient to cause the Board to review its decision.

The respondent also takes exception to the evidence of membership filed by the applicant on the grounds that the evidence of membership was based on ledger cards and dues check-off sheets prepared by the respondent representing the dues check-off of the former employees of the tabulating department. The respondent states that the collective agreement between the applicant and the Hamilton Works office provided for a compulsory check-off and that ledger cards are therefore merely a record of this fact and not evidence of the employees desire to join the union. In assessing the evidence of membership filed by the applicant union, the Board is not interested in the reasons that a person may have for joining a trade union. It is only interested in the fact that employees did join a trade union and the fact that none of the employees concerned objected to this application.

For the reasons set out above and in view of the fact that there is no new evidence available to the respondent which was not available to it at the time of the hearing of this application, the fact that the parties had an opportunity of arguing all these matters at the hearing in this matter and the fact that the majority of the Board is prepared to reach the same conclusion based on the factors which are not in error, the Board does not consider it advisable to reconsider or revoke its decision dated December 6th, 1962."

On January 21, 1963 Board Member H.F. Irwin stated:

"In my written dissent, with reasons therefor dated December 6, 1962 I stated that (1) I would have found that the appropriate bargaining unit consisted of all office employees of the respondent in its general office at Hamilton with certain exceptions not here relevant and (2) as the evidence of membership filed by the applicant disclosed that less than forty-five per cent of the employees in this bargaining unit are members of the applicant, I would have dismissed the application.

In its letter to the Board dated December 24th, 1962 the respondent refers solely to the majority decision and the reasons therefor. Consequently, I consider the respondent's present request

that the Board review its decision for the reasons given in the respondent's letter is primarily addressed to the members of the Board comprising the majority and the responsibility for making such requested explanations and the granting or denying of the request of the respondent is solely theirs.

I, therefore, abstain from making any comment in respect of the Board's reply to the respondent's letter dated December 24th, 1962."

SPECIAL ENDORSEMENT IN CONCILIATION APPLICATIONS DISPOSED OF
BY THE BOARD

4360-62-C: Amalgamated Lithographers of America Local 40,
Ottawa (Applicant) v. Dominion Loose Leaf Company Ltd.
(Respondent). (DISMISSED OCTOBER 1962).

The Board endorsed the Record as follows:

"On this application for conciliation services the applicant relies on an alleged collective agreement between itself and the respondent company dated July 1, 1958.

Following certification in June, 1957, the parties commenced negotiations which culminated in the parties agreeing, before a conciliation Board, to recommend certain terms to their principals. The respondent then prepared a formal agreement which it signed and forwarded to the applicant in October, 1958. The respondent had only two copies and both of them were forwarded to the applicant.

The evidence establishes that while the applicant executed both copies, neither was returned to the respondent. Moreover, the applicant did not inform the respondent that it had executed the agreement. In fact, apart from a telephone conversation between R. J. Clarke, an international representative of the Amalgamated Lithographers of America, and an officer of the respondent, with respect to clarification about one of the points in the memorandum of settlement, there was no contact of any kind whatsoever between the applicant and the respondent from the 31st of October or the 1st of November, 1958, until the first week of March, 1962.

It is clear that the memorandum of settlement did not constitute a collective agreement. The act

of the respondent in forwarding the signed copies of the draft agreement to the applicant must therefore be construed as an offer. When the applicant signed the draft copies it accepted the offer of the respondent. However, the applicant failed to communicate its acceptance of the offer to the respondent. We cannot find that the telephone conversation between Clarke and the company official constituted a communication of the acceptance. Nor can we find that there was any obligation on the respondent to make inquiries. Finally, there is nothing to suggest that the respondent in any way waived an acceptance or agreed to a variation in the ordinary mode of acceptance eg. by mail.

In these circumstances, therefore, we are unable to find that the applicant and the respondent entered into a collective agreement.

The applicant has already had conciliation services and not having entered into a collective agreement with the respondent is not entitled to a further grant of conciliation services. (See Sarnia Observer Case (1959) C.C.H. Canadian Labour Reports, Transfer Binder T16,132, C.L.S. 76-635) unless it can bring itself within section 13a of The Labour Relations Act. There being no joint request in this case, section 13a is not applicable.

In the result therefore this application must be dismissed.

Having regard to the representations of counsel for the respondent at the hearing and to the above conclusions, the Board does not deem it advisable to consider the question of abandonment on this application.

The application is dismissed."

4992-62-C: Restaurant, Cafeteria and Tavern Employees Union, Local 254 of the Hotel & Restaurant Employees & Bartenders' International Union, A.F.L., C.I.O., C.L.C. (Applicant) v. Kimberly-Clark Pulp and Paper Company Limited (Terrace Bay Motor Hotel) (Respondent). (DISMISSED JANUARY 1963).

The Board endorsed the Record as follows:

"The applicant requests that conciliation services be made available to the parties with respect to the employees of the respondent in the bargaining unit defined in the collective agreement between the parties signed on December 6th, 1961.

The relevant sentence in clause 20 of the collective agreement reads as follows:

"This contract shall remain in full force and effect until November 30, 1962 and thereafter for successive periods of one (1) year each unless terminated by written notice delivered by one Party to the other not later than thirty (30) days before any succeeding anniversary thereof."

Notice was given by the applicant to the respondent by letter dated November 19, 1962.

Counsel for the respondent contends that the application is untimely by reason of the decision of the Board in the Hield Brothers Case (1957) C. C.H. Canadian Labour Law Reports 116,072, C.L.S. 76-549. In that case the majority of the Board found, having regard to the language of the pertinent clause of the agreement, that due to the failure of the applicant to give notice within the stipulated period, the collective agreement continued in effect until the anniversary date following the giving of notice as required by the article. The notice given in that case failed to satisfy the requirements of subsection 2 of section 40 and could not satisfy the requirements of subsection 1 of section 40 because it was not given within the period of two months before the agreement ceased to operate.

The instant case falls within the principles set forth in the Hield Brothers Case."

Board Member D.B. Archer dissented and said:

"I dissent for the reasons set forth in the minority decision of the Board in the Hield Brothers Case."

PART 2

STATISTICAL TABLES

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6.	Representation Votes in Termination Applications Disposed of by Board	S49

TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

	Number of applications filed		
	Jan. 1963	1st 10 months of fiscal year 62-63	61-62
I Certification	63	618	658
II Declaration Terminating Bargaining Rights	13	77	65
III Declaration of Successor Status	-	11	8
IV Conciliation Services	82	997	950
V Declaration that Strike Unlawful	1	27	36
VI Declaration that Lockout Unlawful	1	8	1
VII Consent to Prosecute	6	75	93
VIII Complaint of Unfair Practice in Employment (Section 65)	14	118	110
IX Miscellaneous	<u>1</u>	<u>19</u>	<u>17</u>
TOTAL	<u>181</u>	<u>1950</u>	<u>1938</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Number		
	Jan. 1963	1st 10 months of fiscal year 62-63	61-62
Hearings & Continuation of Hearings by the Board	97	1007	793

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THE HISTORY OF THE UNITED STATES OF AMERICA, FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME.

BY
J. B. HARRIS, ESQ.
OF THE BAR AT NEW-YORK.

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WILLIAM B. HARRIS, ESQ.
NEW-YORK: 1841.

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TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD

	Number of appl'ns dis. of Jan. 1st 10 months of fiscal yr.		
	<u>1963</u>	<u>62-63</u>	<u>61-62</u>
I Certification	63	704	639
II Declaration Terminating Bargaining Rights	8	75	55
III Declaration of Successor Status	-	4	9
IV Conciliation Services	82	983	983
V Declaration that Strike Unlawful	-	26	35
VI Declaration that Lockout Unlawful	-	10	1
VII Consent to Prosecute	3	123	83
VIII Complaint of Unfair Practice in Employment (Section 65)	16	125	112
IX Miscellaneous	<u>2</u>	<u>15</u>	<u>16</u>
TOTAL	<u>174</u>	<u>2065</u>	<u>1933</u>

TABLE IV

APPLICATIONS AND COMPLAINTS DISPOSED OF BY BOARD BY MAJOR TYPES

Disposition	Jan.	1st 10 mos.	fiscal yr.	*Employees		
	'63	62-63	61-62	Jan.	1st 10 mos.	fiscal yr.
I <u>Certification</u>				'63	62-63	61-62
Granted	43	467	399	1382	27326	11304
Dismissed	20	179	153	689	10943	6824
Withdrawn	-	58	87	-	2401	2347
TOTAL	<u>63</u>	<u>704</u>	<u>629</u>	<u>2071</u>	<u>40670</u>	<u>20485</u>
II <u>Termination of Bargaining Rights</u>						
Terminated	4	46	16	117	1422	508
Dismissed	4	21	36	37	507	613
Withdrawn	-	8	3	-	233	96
TOTAL	<u>8</u>	<u>75</u>	<u>55</u>	<u>154</u>	<u>2162</u>	<u>1217</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S48 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

Number of appl'ns dis. of
Jan. 1st 10 mos. fiscal year

	1963	62-63	61-62
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III Conciliation Services*

Referred	78	882	927
Dismissed	2	22	13
Withdrawn	<u>2</u>	<u>79</u>	<u>43</u>
TOTAL	<u>82</u>	<u>983</u>	<u>983</u>

IV Declaration that
Strike Unlawful

Granted	-	6	5
Dismissed	-	7	2
Withdrawn	<u>-</u>	<u>13</u>	<u>30</u>
TOTAL	<u>-</u>	<u>26</u>	<u>37</u>

V Declaration that
Lockout Unlawful

Granted	-	1	-
Dismissed	-	6	1
Withdrawn	<u>-</u>	<u>2</u>	<u>-</u>
TOTAL	<u>-</u>	<u>9</u>	<u>1</u>

VI Consent to
Prosecute

Granted	1	18	17
Dismissed	1	13	11
Withdrawn	<u>1</u>	<u>92</u>	<u>55</u>
TOTAL	<u>3</u>	<u>123</u>	<u>83</u>

*Includes applications for conciliation services re unions claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Number of Votes		
	Jan. '63	1st 10 months of fiscal yr. 62-63	61-62
<u>*Certification After Vote</u>			
pre-hearing vote	2	32	46
post-hearing vote	4	27	35
ballots not counted	-	2	-
<u>Dismissed After Vote</u>			
pre-hearing vote	-	15	17
post-hearing vote	6	60	43
ballots not counted	-	1	10
TOTAL	<u>12</u>	<u>137</u>	<u>151</u>

*Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

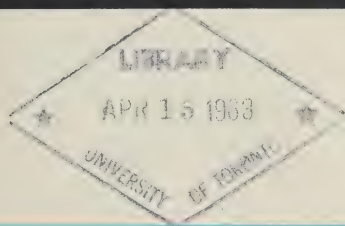
TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Jan. '63	1st 10 months of fiscal yr. 62-63	61-62
*Respondent Union Successful	-	5	3
Respondent Union Unsuccessful	<u>2</u>	<u>20</u>	<u>15</u>
TOTAL	<u>2</u>	<u>25</u>	<u>18</u>

*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the uncumbent union is thus the respondent.

MONTHLY REPORT



FEBRUARY 1968

ONTARIO LABOUR RELATIONS BOARD

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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD DURING FEBRUARY, 1963

Bargaining Agents Certified During February
No Vote Conducted

4524-62-R: Sheet Metal Workers' International Association
Local Union 233 (Applicant) v. Kitchen Installations
Limited (Respondent).

Unit: "all employees of the respondent at Midland, save
and except foremen, those above the rank of foreman,
office and sales staff." (71 employees in the unit).

The Board endorsed the Record as follows:

"For the reasons given in writing a certificate
will issue to the applicant."

5042-62-R: Local Union 633 of the Amalgamated Meat
Cutters and Butcher Workmen of North America, AFL-CIO
(Applicant) v. Dean W. McLaughlin (Respondent).

Unit: "all meat department employees of the respondent
in his store at Oshawa, save and except store manager,
persons above the rank of store manager, persons
regularly employed for not more than 24 hours per week
and students employed during the school vacation period."
(5 employees in the unit).

5043-62-R: Food Handlers' Local Union 175 of the
Amalgamated Meat Cutters and Butcher Workmen of North
America, AFL-CIO (Applicant) v. Dean W. McLaughlin
(Respondent).

Unit: "all employees of the respondent in his store at
Oshawa, save and except store manager, persons above the
rank of store manager, meat department employees, persons
regularly employed for not more than 24 hours per week
and students employed during the school vacation period."
(5 employees in the unit).

5122-62-R: Lumber and Sawmill Workers' Union, Local
2537 of the United Brotherhood of Carpenters & Joiners
of America (Applicant) v. Pineland Timber Company,
Limited (Respondent).

Unit: "all employees of the respondent in its sawmill,
chipper, framer, millpond, yard and haul operations in
the Township of Nairn, save and except foremen,
persons above the rank of foreman, office staff and
scalars." (36 employees in the unit).

5146-62-R: Building Service Employees' International Union (Applicant) v. McMaster University (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener).

Unit: "all employees of the respondent in the maintenance and service of grounds and buildings of the respondent at Hamilton, save and except foremen, foreladies, supervising caretakers, persons above the ranks of foreman, forelady and supervising caretaker, stationary engineers and persons primarily engaged in the handling of food service, campus police, office staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (128 employees in the unit).

5209-62-R: Sudbury and District General Workers' Union Local 902 of the International Union of Mine, Mill and Smelter Workers (Applicant) v. Hotel Royale (Respondent).

Unit: "all employees of the respondent in its beverage rooms at Garson, save and except managers, persons above the rank of manager, and persons regularly employed for not more than 24 hours per week." (4 employees in the unit).

5268-62-R: International Woodworkers of America (Applicant) v. Hanover Kitchens (Canada) Limited (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff, persons regularly employed for not more than 24 hours per week, and students hired during the school vacation period." (81 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

5270-62-R: Food Handler's Local Union 175, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Steinberg's Limited (Respondent).

Unit: "all employees regularly employed for not more than 24 hours per week and students hired for the school vacation period employed by the respondent in its retail stores at Brantford." (15 employees in the unit).

5272-62-R: International Union of Operating Engineers, Local 796 (Applicant) v. St. Lawrence Starch Company Limited (power house, Port Credit) (Respondent).

Unit: "all stationary engineers and persons primarily engaged as their helpers employed in the power house of the respondent at Port Credit, save and except chief engineer." (13 employees in the unit).

5291-62-R: Canadian Brotherhood of Railway, Transport & General Workers (Applicant) v. Public Utilities Commission of the City of Kingston (Respondent) v. Local Union 1678, International Brotherhood of Electrical Workers, CLC (Intervener).

Unit: "all bus operators, bus mechanics, bus servicemen and bus stockkeepers of the respondent at Kingston." (48 employees in the unit).

The Board endorsed the Record in part as follows:

"The applicant was certified as bargaining agent for the bus operators, bus mechanics, bus servicemen and bus stockkeepers in the public transit system formerly operated by the Kingston City Coach Company in September 1946 and continued to represent the employees of Kingston City Coach Company in these classifications until July 1962. In July 1962 Kingston City Coach Company surrendered its franchise to the City of Kingston and the public transit system was taken over by the City of Kingston and operated by the City of Kingston from July, 1962 until January 1963. In January 1963 following the enactment of a by-law the City of Kingston transferred the public transit system to the respondent.

The respondent and the intervener are parties to a collective agreement which commenced on the 1st day of January, 1962 and continues in effect until the 31st day of December, 1963.

Clause 1 of the collective agreement between the respondent and the intervener reads, in part, as follows:

'This agreement shall apply to all employees of the Public Utilities Commission of the City of Kingston who have been employed for a continuous period of 6 months or more, foremen, crew foremen, those above the ranks of foremen and clerical office staff excepted.'

It appears that the parties to the collective agreement also negotiated for temporary employees and probationary employees.

The respondent advised the Board that because of the 'transit' employees' previous association with the City of Kingston, the 'transit' employees are not considered probationary employees of the respondent but in fact are considered by the respondent to be full time regular employees.

The Board was advised by the respondent that it took no position with respect to the coverage of the 'transit' employees by the collective agreement between the respondent and the intervener. The intervener advised the Board that the 'transit' employees were not receiving the benefits set out in the collective agreement between the respondent and the intervener and that the respondent and the intervener were currently negotiating an amendment to the collective agreement in an attempt to cause the 'transit' employees to be covered by the collective agreement.

It is of interest to note that all of the employees concerned in this application continued to be members of the applicant and were represented by the applicant even after they ceased to be employees of Kingston City Coach Company.

The Board finds that due to the fact that the 'transit' employees with whom we are here concerned are full time regular employees employed by the respondent. Clause 1 of the collective agreement between the respondent and the intervener excluded the 'transit' employees from the collective agreement at the time this application was made because of the fact that the 'transit' employees had been employed by the respondent less than 6 months and the application is therefore timely."

5294-62-R: United Electrical, Radio & Machine Workers of America (UE) (Applicant) v. Kenmore Machine Products (Canada) Limited (Respondent).

Unit: "all employees of the respondent in the Township of Clinton, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (13 employees in the unit).

5297-62-R: International Woodworkers of America (Applicant)
v. Prestonia Stationary Manufacturing Limited (Respondent).

Unit: "all employees of the respondent at Stratford, save and except foremen, persons above the rank of foreman, office and sales staff". (22 employees in the unit).

5319-62-R: Lumber and Sawmill Workers' Union, Local 2537
of the United Brotherhood of Carpenters and Joiners of
America (Applicant) v. McFadden Lumber Company Division
of Domtar Construction Materials Ltd. (Respondent). (133
employees in the unit).

The Board endorsed the Record in part as follows:

"The parties agreed to the description of the bargaining unit as follows:-

All employees of the company engaged in its sawlog operations in the Aubinadong River District consisting of the Townships of 4F, 5F, 6F, 5G, 6G, 7G, and 5H and the drive operation from the Aubinadong River down the Mississagua River to the Red Rock Dam, in the District of Algoma, save and except foremen, persons above the rank of foreman, office staff, camp clerks, sales staff, scalers and persons employed in all Co-op operations as well as persons employed by the company out of its Boom Camp situated in the Township of Cabden at the mouth of the Mississagua River on the North Channel of Lake Huron whose activities extend up the Mississagua River to and including the Red Rock Dam for the purpose of sluicing logs through this dam at times other than during the main drive.

Having regard to the agreement of the parties the Board finds that this unit of the respondent's employees is appropriate for collective bargaining."

5322-62-R: Retail Clerks International Association (Applicant)
v. Pollock's Groceteria Limited (Respondent).

Unit: "all employees of the respondent at Hamilton, save and except store manager, produce manager, meat manager, head cashier and persons above the ranks of store manager, produce manager, meat manager and head cashier and persons employed for not more than twenty-four hours per week and students hired for the vacation period." (28 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

The Board endorsed the Record in part as follows:

"For purposes of clarity, the Board (1) notes that the delivery boys work less than twenty-four hours per week, (2) declares that it is not prepared in the circumstances of this case to exclude the category "persons regularly attending school." "

Board Member G.R. Harvey dissented and said:

"I dissent with respect to the exclusion of the produce manager, meat manager and head cashier. In view of the fairly uniform practice, which in my opinion the Board has followed, of including in a bargaining unit persons in these categories, I would not have excluded these categories on the agreement of the parties without further inquiry as to their duties and responsibilities."

5329-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. A.G. Anderson Ltd. (Respondent).

Unit: "all employees of the respondent at its plant in London, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week."
(23 employees in the unit).

5333-62-R: International Hod Carriers Building and Common Labourers Union, Local # 983 (Applicant) v. T. Anthony Limited (twenty-five mile radius from Toronto City Hall) (Respondent).

Unit: "all construction labourers of the respondent within a twenty-five mile radius from Toronto City Hall, save and except non-working foremen and persons above the rank of non-working foreman." (18 employees in the unit).

The Board endorsed the Record in part as follows:

"Having regard to all the evidence and the representations of the parties, the Board is satisfied that Local Union #811 of the International Hod Carriers Building and Common Labourers Union of America has ceased to exist as an entity and that therefore the respondent is not bound by the collective agreement which it entered into with the said Local #811 on August 17, 1962."

5338-62-R: Bricklayers, Masons and Plasterers' International Union Local No. 28 (Applicant) v. Oliver Comisso and Son Limited (Respondent).

Unit: "all terrazzo and tile mechanics, grinders and helpers in the employ of the respondent at the City of Sudbury and within a radius of thirty-five miles from the City of Sudbury Federal Building, save and except non-working foremen and persons above the rank of non-working foreman."
(6 employees in the unit).

5339-62-R: Printing Specialties & Paper Products Union, Local 466 (Applicant) v. Manbert Packaging Products Limited (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff." (35 employees in the unit).

5348-62-R: Upholsterers' International Union of North America, through its Agent Local # 30 (Applicant) v. Reliance Furniture Manufacturers (Respondent).

Unit: "all employees of the respondent at its plant in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, sales and office staff."
(22 employees in the unit).

5368-62-R: Toronto Newspaper Guild, Local 87 (Applicant) v. The Globe & Mail Limited (Respondent).

Unit: "all cafeteria employees employed by the respondent company in Metropolitan Toronto, save and except the chef-manager of the cafeteria and persons regularly employed for not more than 24 hours per week."
(10 employees in the unit).

5388-62-R: Moira-Schuster Employees Association (Applicant) v. Moira-Schuster Limited (Respondent).

Unit: "all employees of the respondent at Belleville, save and except foremen, persons above the rank of foreman and office staff." (21 employees in the unit).

5390-62-R: The Hotel and Restaurant Employee's & Bartenders International Union Local 412 (Applicant) v. Urban Motor Hotels Limited (Respondent).

Unit: "all employees of the respondent at its Mid-City Motor Hotel at Sault Ste. Marie, save and except manager, persons above the rank of manager, office staff and persons regularly employed for not more than 24 hours per week." (31 employees in the unit).

5407-62-R: Canadian Construction Workers' Union, Division No. 1, N.C.C.L. (Applicant) v. Roland Lefebvre Lathing Co. Ltd. (Respondent).

Unit: "all employees of the respondent working at or out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (14 employees in the unit).

5412-62-R: Sarnia General Workers Union Local 1606, C.L.C. (Applicant) v. Cabot Carbon of Canada Ltd. (Respondent) v. Local 944, International Union of Operating Engineers (Intervener).

Unit: "all employees of the respondent at Sarnia, save and except foremen and supervisors, persons above the ranks of foreman and supervisor, office staff, students hired for the school vacation period and persons covered by a subsisting collective agreement between the respondent and Local 944 of the International Union of Operating Engineers." (73 employees in the unit).

5417-62-R: International Hod Carriers Building & Common Labourers Union of America, Local 1059 (Applicant) v. Concrete Pipe Limited (Respondent).

Unit: "all employees of the respondent at London, save and except foremen, persons above the rank of foreman, salesmen and office staff." (13 employees in the unit).

5419-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Aprile Contracting Ltd. (Respondent).

Unit: "all construction labourers of the respondent within a twenty-five mile radius from Toronto City Hall, save and except non-working foremen and persons above the rank of non-working foreman and shop and yard employees." (16 employees in the unit).

5420-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Cerametal Industries Ltd. (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent within a twenty-five mile radius from the Toronto City Hall, and including the Town of Newmarket, and an area bounded on the east by the westerly limits of the third concession road, running north and south, east of Yonge Street; on the north by the southerly limits of the first concession road, running east and west, north of Newmarket; on the west by the easterly limits of the first concession road, running north and south, west of Yonge Street, save and except non-working foremen and persons above the rank of non-working foreman".
(20 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

5137-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Crouse-Hinds Company of Canada Limited (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, stationary engineers, office and sales staff and students hired for the school vacation period."
(187 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

Number of names on revised eligibility list		184
Number of ballots cast	180	
Number of segregated ballots (not counted)	5	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	101	
Number of ballots marked as opposed to applicant	73	

5243-62-R: United Shoe Workers of America AFL-CIO (Applicant) v. Savage Shoes Limited (Respondent).

Unit: "all employees of the respondent at its plant #3 in Galt, save and except assistant foremen, persons above the rank of assistant foreman and office staff." (179 employees in the unit).

Number of names on revised eligibility list		172
Number of ballots cast	167	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	108	
Number of ballots marked as opposed to applicant	58	

Certified Subsequent to Post-Hearing Vote

4567-62-R: United Cement, Lime and Gypsum Workers International Union, A.F.L.-C.I.O.-C.L.C.(Applicant) v. Mot&-Mix Concrete Limited (Respondent).

Unit: "all employees of the respondent at Ottawa, save and except foremen, persons above the rank of foreman, office and laboratory staff." (4 employees in the unit).

Number of names on revised eligibility list		5
Number of ballots cast	5	
Number of ballots segregated (not counted)	1	
Number of ballots marked in favour of applicant	4	
Number of ballots marked as opposed to applicant	0	

4569-62-R: United Cement, Lime and Gypsum Workers International Union, A.F.L.-C.I.O.-C.L.C.(Applicant) v. Frazer Duntile Company, Limited (Respondent).

Unit: "all employees of the respondent in the County of Carleton, save and except foremen, persons above the rank of foreman, office and laboratory staff." (89 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

Number of names on revised eligibility list		61
Number of ballots cast	61	
Number of ballots segregated (not counted)	1	
Number of ballots marked in favour of applicant	44	
Number of ballots marked as opposed to applicant	16	

4570-62-R: United Cement, Lime and Gypsum Workers International Union, A.F.L.-C.I.O.-C.L.C.(Applicant) v. Bruce Fuels Limited (Respondent).

Unit: "all employees of the respondent at Ottawa, save and except foremen, persons above the rank of foreman and office staff." (6 employees in the unit).

Number of names on revised eligibility list	15
Number of ballots cast	15
Number of spoiled ballots	1
Number of ballots segregated (not counted)	1
Number of ballots marked in favour of applicant	11
Number of ballots marked as opposed to applicant	2

5108-62-R: International Woodworkers of America (Applicant) v. Jamar Flakeboard Limited (Respondent).

Unit: "all employees of the respondent in the Township of Teck, save and except foremen, persons above the rank of foreman, office staff, laboratory technicians and watchmen." (20 employees in the unit).

Number of names on revised eligibility list	20
Number of ballots cast	20
Number of ballots marked in favour of applicant	11
Number of ballots marked as opposed to applicant	9

5147-62-R: National Union of Public Service Employees (Applicant) v. St. Joseph's Hospital (Respondent).

Unit: "all lay employees of the respondent at its hospital in Peterborough, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate pharmacists, graduate dietitians, student dietitians, technical personnel, supervisors, foremen, persons above the rank of supervisor or foreman, chief engineer, office staff and persons regularly employed for not more than 24 hours per week". (169 employees in the unit).

On January 17, 1963 the Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the ~~term~~ technical personnel comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians and notes the agreement of the parties that the term also comprises oxygen therapists.

For the purposes of clarity, the Board declares that the bargaining unit includes certified nursing assistant."

Number of names on revised eligibility list	141
Number of ballots cast	147
Number of ballots segregated (not counted)	10
Number of ballots marked in favour of applicant	110
Number of ballots marked as opposed to applicant	27

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Applications for Certification Dismissed No Vote Conducted

4523-62-R: Sheet Metal Workers' International Association,
Local Union 233 (Applicant) v. Kindred Industries Ltd.
(Midland plant) (Respondent).

The Board endorsed the Record as follows:

"For the reasons given at the hearing the application is dismissed."

5056-62-R: International Union, United Automobile Air-
craft and Agricultural Implement Workers of America (UAW)
(Applicant) v. Thompson Products Limited (St. Catharines
plants) (Respondent) v. The Canadian Union of Operating
Engineers (Intervener) v. Thompson Products Employees'
Association (Intervener). (587 employees).

The Board endorsed the Record as follows:

"The Canadian Union of Operating Engineers has applied to be certified as bargaining agent for all employees of the respondent who are employed as stationary engineers and helpers at its plant in St. Catharines.

The stationary engineers in the employ of the respondent are currently represented by Thompson Products Employees' Association and are part of an overall integral unit represented by Thompson Products Employees' Association.

The Canadian Union of Operating Engineers argued that the stationary engineers employed by the respondent are entitled to be represented by The Canadian Union of Operating Engineers which is a craft union, because of the recognized craft status of stationary engineers.

The Canadian Union of Operating Engineers also adduced evidence that there was some dissatisfaction with the representation of the stationary engineers by Thompson Products Employees' Association. Although the stationary engineers have no complaints with respect to the amount of wages they are receiving they do complain that they are compelled to work Saturdays and Sundays without premium pay although they do receive premium pay for the sixth and seventh days worked by them in any work week. It further appears that if their sixth or seventh days work happens to fall on Saturday or Sunday rather than on some other day or days of the week they would in that event receive

premium pay for the Saturday or Sunday. It further appears from the evidence that prior to 1959, the stationary engineers had in fact received premium pay for Saturday and Sunday. However, in 1959 a new collective agreement was negotiated which provided premium pay for the sixth and seventh days of operation rather than for Saturdays and Sundays as such.

The Board finds that the stationary engineers in the employ of the respondent are currently bound by a collective agreement between the respondent and Thompson Products Employees' Association and they have been bargained for by Thompson Products Employees' Association since 1944. The Board further finds that the collective agreement covering stationary engineers has a separate wage schedule covering the classifications of chief operating engineers - 2nd class and stationary engineers - 3rd class, under which classifications the stationary engineers are paid, that the stationary engineers have received greater increases than other classifications covered by the collective agreement on more than one occasion, that the incumbent bargaining agent has processed grievances and has made representations on behalf of stationary engineers, that the stationary engineers enjoy seniority rights and all other benefits under the collective agreement in common with other employees in the plant and they in fact have exercised such seniority rights by taking jobs in production rather than being laid off for lack of work. Although the stationary engineers could have nominated a stationary engineer to be elected to the bargaining committee, they have not seen fit to do so. Prior to the amendment of the collective agreement changing the method of premium pay, the stationary engineers were consulted and approved of this change and suffered no loss of gross pay as a result of this change being made. The same number of stationary engineers are required to work on Saturdays and Sundays at the present time as before the change in method of premium pay was made in 1959.

Having regard to the decisions of the Board in the Lily Cup Case, Ontario Labour Relations Board Monthly Report, January 1961, page 370, The Canadian Foundries and Forgings Case, 1961, C.C.H. Canadian Labour Law Reporter 16,203 C.L.S. 76-753 and Automatic Electric (Canada) Limited Case, Board File No. 1501-61-R, the history of collective

bargaining between the respondent and Thompson Products Employees' Association as evidenced by the length of continuous representation by Thompson Products Employees' Association of the Stationary engineers in the collective agreement, the community of interest with other employees covered by the collective agreement including seniority rights, the fact that a stationary engineer has an opportunity to represent the stationary engineers on the bargaining committee and the opposition to the application by the respondent and the incumbent trade union, the Board is of opinion that it should exercise its discretion in this matter and not apply section 6 (2) of The Labour Relations Act and therefore finds that the unit proposed by the Canadian Union of Operating Engineers is not appropriate in the circumstances of this case.

The Canadian Union of Operating Engineers further argued that because of an application made by the International Union United Automobile, Aircraft and Agricultural Implement Workers of America, U.A.W. which was made subsequent to this application, and the possibility that the incumbent trade union might be displaced as the result of this second application, the Board should take into consideration the fact that a second application is pending when dealing with the instant application. The Board finds no merit in such argument due to the fact that the Board must consider the evidence with respect to the instant application as of the time the application was made and such events which are subsequent to this application can have no bearing in this matter.

The application is therefore dismissed."

5156-62-R: International Union of Operating Engineers, Local 866 (Applicant) v. Fleet Manufacturing Limited (Respondent) v. International Association of Machinists Frontier Lodge No. 171 (Intervener). (4 employees).

The Board endorsed the Record as follows:

"The applicant seeks to carve out a bargaining unit of stationary engineers from an "all employee" unit with exceptions not here material. Counsel for the respondent company contends that the Board should dismiss the application under section 6 (2) of The Labour Relations Act in view of the bargaining history in this plant. The intervener union also opposes the application.

The bargaining history in the respondent's plant is as follows: the intervener was certified in 1946 for its present bargaining unit. Prior to 1946, this same unit had been represented by another trade union for four or five years. The stationary engineers were included in this bargaining unit and have been included in the bargaining unit in all collective agreements between the respondent company and the intervener union. These collective agreements specified job categories and wage rates for stationary engineers. The stationary engineers have been treated as an integral part of the bargaining unit and have enjoyed all benefits accorded to other employees in the bargaining unit under the agreements, including, in particular, seniority rights on a plant-wide basis by virtue of which they have employment in the shop during their off season.

The applicant admits that the stationary engineers have been effectively represented by the intervener over a period of many years but submits that, by reason of having become members of the applicant union, they have indicated a desire to be represented by the applicant in bargaining collectively with their employer.

In a number of recent decisions the Board has enumerated the factors which it has considered in cases where it has been called upon to exercise its discretion under section 6 (2) of The Labour Relations Act. For our purpose reference need only be had in this respect to the Lily Cups Limited Case, Ontario Labour Relations Board Monthly Report, January 1961, page 370, and the Canada Foundries and Forging Limited Case, (1961) C.C.H. Canadian Labour Law Reporter 16,203; C.L.S. 76-753.

Having regard to the facts of this case and to the previous decisions of the Board, we are of opinion that this is not a proper case in which to apply the mandatory provisions of section 6 (2) of The Labour Relations Act. Accordingly we find that the bargaining unit proposed by the applicant is inappropriate for collective bargaining.

The application is dismissed."

5207-62-R: International Union of Operating Engineers, Local 700 (Applicant) v. Firestone Tire & Rubber Company of Canada Limited (Respondent) v. United Rubber, Cork, Linoleum and Plastic Workers of America, Local 113 (Intervener). (15 employees).

(SEE INDEXED ENDORSEMENT PAGE 491)

5234-62-R: The Canadian Union of Operating Engineers (Applicant) v. St. Marys General Hospital (Kitchener) (Respondent). (12 employees).

(SEE INDEXED ENDORSEMENT PAGE 496)

5300-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Tru-Line Construction LTD. (Respondent). (7 employees).

5316-62-R: International Union of Operating Engineers, Local 700 (Applicant) v. Burlington-Nelson Hospital (Respondent). (4 employees).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for all maintenance personnel employed in the Burlington-Nelson Hospital consisting of handymen, carpenters and electricians that work under the direct supervision of the chief engineer. The applicant was certified on the 7th day of March, 1962 as bargaining agent for all stationary engineers employed in the power house of Burlington-Nelson Hospital at Burlington, save and except the chief engineer and the assistant chief engineer.

For reasons given by the Board in the St. Mary's General Hospital Case, Board File No. 5234-62-R, the Board finds that the unit proposed by the applicant is not a unit of employees of the respondent appropriate for collective bargaining.

Since no bargaining rights are in existence with respect to any employees of the respondent other than the stationary engineers, we are of opinion that an appropriate unit for collective bargaining would be the usual "hospital unit" that is to say, an all employee unit with certain exceptions not herematerial. In these circumstances the Board is satisfied on the basis of all the evidence before it that less than forty-five per cent of the employees of the respondent in any bargaining unit which the Board would find appropriate at the time this application was made were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

The application is therefore dismissed."

5321-62-R: Murray Transport Drivers Union (Applicant) v. Haggarty Transport Limited (Wooler) (Respondent). (8 employees).

The Board endorsed the Record as follows:

"For reasons given orally at the hearing, the Board finds that the applicant is not a trade union within the meaning of section 1 (1) (j) of The Labour Relations Act.

The application is therefore dismissed."

5337-62-R: National Union of Public Employees, C.L.C. (Applicant) v. Lakeshore District Board of Education (Respondent). (43 employees).

The Board endorsed the Record as follows:

"The Board finds that the respondent is a municipality as defined in the Department of Municipal Affairs Act and that it has declared under section 78 of The Labour Relations Act, R.S.O. 1950, c. 194 (now section 89 of The Labour Relations Act, R.S.O. 1960, c. 202) that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and the proceeding is accordingly terminated."

5340-62-R: United Steelworkers of America (Applicant) v. McCoy Machine and Supply Company (Hamilton plant) (Respondent) v. Pattern Makers' Association of Hamilton & Vicinity (Intervener). (12 employees).

The Board endorsed the Record as follows:

"For the reasons given orally at the hearing, the Board is satisfied on the basis of all the evidence before it that less than forty-five per cent of the employees of the respondent in any bargaining unit the Board might deem to be appropriate, at the time the application was made, were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure."

5350-62-R: Building Service Employees' Union, Local 210, A.F. of L.-C.I.O., C.L.C. (Applicant) v. I.O.D.E. Memorial Hospital and Essex County Sanatorium (Windsor) (Respondent). (61 employees).

The Board endorsed the Record as follows:

"Having regard to the representations of counsel for the respondent including the fact that he advised the Board that the applicant had consented to the dismissal of this application, the application is accordingly dismissed."

5358-62-R: Hydraulic High Pressure Water Cleaning and Chemical Cleaning Division of Local Union No. 1590, Sarnia, Ont. Brotherhood of Painters, Decorators & Paperhangers of America, A.F.L.-C.I.O. (Applicant) v. C.H. Heist Ltd. (Respondent) v. United Brotherhood of Carpenters and Joiners of America (Intervener). (11 employees).

The Board endorsed the Record as follows:

"For the reasons given at the hearing the application is dismissed."

5438-62-R: Operative Plasterers and Cement Masons International Association of the United States and Canada, Local 124 (Applicant) v. J.A. Jones Construction Company (Canada) Limited (counties of Prescott, Russell, Carleton and Renfrew (Respondent). (13 employees).

The Board endorsed the Record as follows:

"The Board finds that the collective agreement between the International Hod Carriers', Building and Common Labourers' Union of America Local 527 (A.F.L.- C. I. O.) (C. L. C.) and J.A. Jones Construction Company (Canada) Limited dated May 1st, 1961 is a bar to the present application, in that the present application was filed prior to the commencement of the last two months of the operation of the said agreement."

APPLICATIONS FOR CERTIFICATION DISMISSED SUBSEQUENT TO
POST-HEARING VOTE

4502-62-R: Fuel, Bus, Limousine, Petroleum Drivers and Allied Employees Local Union No. 352 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Lander Stark Oil Limited (Respondent).

Unit: "all employees of the respondent at Oshawa, save and except foremen, persons above the rank of foreman and office staff." (12 employees in the unit).

On January 24, 1962 the Board endorsed the Record in part as follows:

"Following the service of the report of the examiner dated October 31st, 1962, a hearing by the Board in connection with the statement of objections and desire to make representations filed by the applicant within the time fixed under subsection (3) of section 41 of the Board's Rules of Procedure.

At this hearing the Board, on agreement of the parties, heard evidence in respect of the applicant's submission that Lander Coal Company Limited and the respondent, Lander Stark Oil Limited, are engaged in a joint commercial enterprise. The applicant says that, accordingly, the Board should treat the two companies as a single entity for the purposes of The Labour Relations Act or, in the alternative, request leave of the Board to add Lander Coal Company Limited as a respondent and to include the employees of that company in the bargaining unit. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on this issue was afforded to the parties.

On the basis of all the evidence before it, the Board is not prepared to find that the two companies in question operate as a joint commercial enterprise. In these circumstances the Board is not called upon to deal with the submission that the two companies constitute a single entity for the purposes of The Labour Relations Act. Nor, having regard to the circumstances of this case and the representations of the parties, is the Board prepared to add Lander Coal Company Limited as a respondent in this matter for the purpose of including its employees in the bargaining unit."

Number of names on eligibility list	12
Number of ballots cast	12
Number of ballots marked in favour of applicant	1
Number of ballots marked as opposed to applicant	11

4543-62-R: Building Service Employees' International Union, Local 268, A.F. of L.-C.I.O., C.L.C. (Applicant) v. Sault Ste. Marie General Hospital (Respondent).

Unit: "all employees of the respondent at Sault Ste. Marie, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate pharmacists, graduate dietitians, student dietitians, technical personnel supervisors foremen, persons above the rank of supervisor or foreman, chief engineer, office staff and persons regularly employed for not more than 24 hours per week." (200 employees in the unit).

Number of names on revised eligibility list	173
Number of ballots cast	163
Number of spoiled ballots	1
Number of ballots marked in favour of applicant	85
Number of ballots marked as opposed to applicant	82

The Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the term technical personnel comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians.

For the purposes of clarity, the Board further declares that the bargaining unit includes certified nursing assistants."

4601-62-R: The Sudbury and District General Workers' Union Local 902 of The International Union of Mine, Mill and Smelter Workers (Applicant) v. The Great Atlantic & Pacific Tea Company Limited (Respondent).

Unit: "all employees of the respondent at its stores at Espanola, save and except assistant store managers, persons above the rank of assistant store manager, office staff, persons regularly employed for not more than 24 hours per week, and students hired for the school vacation period." (9 employees in the unit).

Number of names on revised eligibility list	3
Number of ballots cast	3
Number of ballots marked in favour of applicant	2
Number of ballots marked as opposed to applicant	6

5153-62-R: International Brotherhood of Teamsters Chauffeurs Warehousemen & Helpers, Local 141, Warehousemen and Miscellaneous Drivers (Applicant) v. The Goodyear Tire & Rubber Company of Canada, Limited (Respondent).

Unit: "all employees of the respondent at its service stores at London, save and except foremen, persons above the rank of foreman, office and sales staff." (10 employees in the unit)

Number of names on revised eligibility list	6
Number of ballots cast	6
Number of ballots marked in favour of applicant	2
Number of ballots marked as opposed to applicant	4

5168-62-R: International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers Local 419, Warehousemen and Miscellaneous Drivers (Applicant) v. Huttons Produce Ltd. (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff." (5 employees in the unit).

Number of names on revised eligibility list	2
Number of ballots cast	2
Number of ballots marked in favour of applicant	0
Number of ballots marked as opposed to applicant	2

APPLICATIONS FOR CERTIFICATION WITHDRAWN DURING FEBRUARY 1963

4568-62-R: United Cement, Lime and Gypsum Workers International Union, A.F.L.-C.I.O.-C.L.C. (Applicant) v. Bruce Coal Company, Limited (working in and out of Ottawa) (Respondent). (7 employees).

5070-62-R: Local Union 403, Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. St. Williams Preservers Limited (Simcoe) (Respondent). (1 employee).

The Board endorsed the Record as follows:

"Having regard to the consent of the parties this application is withdrawn by leave of the Board."

5347-62-R: International Brotherhood of Teamsters Chauffeurs, Warehousemen and Helpers, Local 141, Warehousemen and Miscellaneous Drivers (Applicant) v. National Grocers Company Limited (London) (Respondent) v. Retail, Wholesale and Department Store Union, Local 414, AFL-CIO-CLC (Intervener). (WITHDRAWN). (15 employees).

5362-62-R: Upholsterers' International Union of North America, through its Agent Local #30 (Applicant) v. Castle Upholstering Co. (Toronto plant) (Respondent). (20 employees).

5369-62-R: Building Service Employees' International Union, Local 204, A.F. of L-C.I.O., C.L.C. (Applicant) v. Excel Fluorescent Services Limited (Toronto) (Respondent). (4 employees).

5408-62-R: International Brotherhood of Teamsters, Chauffeurs Warehousemen and Helpers Local 14, Warehousemen and Miscellaneous (Applicant) v. Elliott-Marr and Company Limited (Respondent) v. Retail, Wholesale and Department Store Union, Local 414, of the R.W.D.S.U. (Intervener). (28 employees).

5431-62-R: Toronto Typographical Union, No. 91, I.T.U. (Applicant) v. Rolph Clark Stone Limited (Composing Department, Toronto plant) (Respondent). (15 employees).

5432-62-R: Local 280 of the Hotel & Restaurant Employees' & Bartenders' International Union, A.F.L.-C.I.O.-C.L.C. (Applicant) v. Renforth Development Ltd., operating premises known as Constellation Hotel (Rexdale) (Respondent). (23 employees).

APPLICATIONS FOR TERMINATION DISPOSED OF DURING FEBRUARY, 1963

4994-62-R: Thomas A. Chappell and Lorne G. King on their own behalf and on behalf of the Employees of Peterborough Ready-Mixed Concrete Supply Limited (Applicants) v. Local Union 230, International Brotherhood of Teamsters (Respondent). (GRANTED). (3 employees).

Number of names on eligibility list	3
Number of ballots cast	3
Number of ballots marked in favour of respondent	0
Number of ballots marked as opposed to respondent	3

5077-62-R: Arthur Ashcroft (Applicant) v. United Steelworkers of America (Respondent) v. Lakeshore Die Casting Limited (Intervener). (GRANTED). (82 employees). (Re: Lakeshore Die Casting Limited, Oakville, Ontario)

5085-62-R: Harvey Saunders and Thomas E. Hawkins (Applicant) v. Retail, Wholesale and Department Store Union, Local 440, A.F.L. C.I.O., C.L.C. (Respondent). (GRANTED). (61 employees). (Re: Charles Yeates and Company Limited, Royal Dairy, Guelph, Ontario)

Number of names on revised eligibility list	54
Number of ballots cast	54
Number of ballots marked in favour of respondent	15
Number of ballots marked as opposed to respondent	39

5096-62-R: Four - 0 - One Collision Works (Applicant) v. Welders Public Garage Employees Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (GRANTED). (5 employees).

(Re: Four - 0 - One Collision Works,
Metro Toronto, Ontario)

Number of names on revised eligibility list	4
Number of ballots cast	4
Number of ballots marked in favour of respondent	0
Number of ballots marked as opposed to respondent	4

5097-62-R: Hi-Grade Auto Body & Collision Service (Applicant) v. Welders Public Garage Employees Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters of America (Respondent). (GRANTED). (3 employees).

(Re: Hi-Grade Auto Body & Collision Service,
Metro Toronto)

Number of names on eligibility list	3
Number of ballots cast	3
Number of ballots marked in favour of respondent	0
Number of ballots marked as opposed to respondent	3

5111-62-R: Richard McBean and Gladys Harvard (on their own behalf and on behalf of the employees of Federal Packaging and Partitioning Company Limited of Ajax, Ontario (Applicant) v. International Woodworkers of America (Respondent). (GRANTED). (34 employees).

(Re: Federal Packaging and Partitioning Company Limited,
Ajax, Ontario)

Number of names on eligibility list	34
Number of ballots cast	34
Number of segregated ballots (not counted)	1
Number of ballots marked in favour of respondent	15
Number of ballots marked as opposed to respondent	18

5171-62-R: Eugene Rieder, Leroy Ayrheart and Jon Voytko on their own behalf and on behalf of the employees of Imperial School Desk Limited (Applicant) v. The International Union of United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-AFL-CIO) (Respondent) v. Imperial School Desks Limited (Intervener). (GRANTED). (16 employees).

(Re: Imperial School Desks Limited,
Petrolia, Ontario)

Number of names on eligibility list	16
Number of ballots cast	16
Number of ballots marked in favour of respondent	3
Number of ballots marked as opposed to respondent	13

5263-62-R: Employees of Ray's Haulage Ltd. (Applicant) v. General Truck Drivers Union Local 879, Hamilton (Respondent). (DISMISSED). (11 employees).

(Re: Ray's Haulage Ltd.,
St. Catharines, Ontario)

(SEE INDEXED ENDORSEMENT PAGE 497)

5284-62-R: Bruce Leitch Burrows (Applicant) v. International Union of Operating Engineers, Local 729, Kingston, Ontario (Respondent). (GRANTED). (2 employees).

(Re: Liquifuels Limited,
Collins Bay, Ontario)

5430-62-R: Industrial Food Services Division of Vendomatic Services Limited (Applicant) v. Hotel and Restaurant Employees and Bartenders' International Union AFL, CIO, CLC, Local 254 (Respondent). (DISMISSED). (14 employees).

(Re: Industrial Food Services Division of Vendomatic Services Limited, (operation at John Inglis Co. Limited),
Toronto, Ontario)

The Board endorsed the Record as follows:

"The applicant and the respondent are parties to a collective agreement entered into January 30th, 1961, which agreement was to remain in force and effect until January 29th, 1963 and from year to year thereafter

unless notice of termination is given by either party not less than 30 days but not more than 60 days before its expiry date. No notice of termination was given by either party.

The Board finds that the collective agreement between the applicant and the respondent renewed itself on January 30, 1963 for a further term of one year. This application was made February 12th, 1963 subsequent to the automatic renewal of the collective agreement, and pursuant to the provisions of section 46 (2) of The Labour Relations Act, this application is untimely and is accordingly dismissed."

APPLICATIONS UNDER SECTION 79 DISPOSED OF BY THE BOARD
DURING FEBRUARY, 1963

4260-62-M: The Corporation of the City of Port Arthur (Applicant) v. The Port Arthur Municipal Employees Association, Local 529, N.U.P.E. (Respondent).

Board Member D.B. Archer dissented as to the finding that certain named persons were not employees within the meaning of section 1 (3) (b) of the Labour Relations Act.

4914-62-M: The Corporation of the City of Sudbury (Applicant) v. Local #6, National Union of Public Service Employees (Respondent).

The Board endorsed the Record as follows:

"Application under section 79 (2) of The Labour Relations Act for a determination that V. Huot, S. Whalen and G. Newlands are not employees of the respondent for the purposes of The Labour Relations Act by reason of clause b of subsection 3 of section 1 of The Labour Relations Act. These three persons were included in the bargaining unit defined in the Board's certificate issued to the respondent union on March 24, 1960, and they were also included in the bargaining unit defined in the collective agreement between the applicant and the respondent entered into January 1, 1962. In an application of this nature, the onus rests on the applicant to establish its claim that these three persons are not employees. Having regard to the evidence presented to the examiner as to their duties at the time of the examination and especially the statement of the operations division

director for the City of Sudbury set out in the examiner's report, to the effect that they do not have "any more power such as managerial capacity" at this time, when their status was put in issue, than they had before they were reclassified, we find that the applicant has not satisfied the onus resting upon it to establish its claim and the applicant's request is accordingly denied."

REQUEST TO VARY THE ARBITRATION PROVISION OF COLLECTIVE
AGREEMENT (SECTION 34 (3) DISPOSED OF DURING
FEBRUARY, 1963

5220-62-M: J. Becker Inc., (Applicant) v. Sheet Metal
Workers' International Association, Local 30 (Respondent).
(WITHDRAWN).

APPLICATIONS FOR DECLARATION THAT STRIKE UNLAWFUL
DISPOSED OF DURING FEBRUARY, 1963

3970-62-U: J.A. Service & Company Limited, for and
on behalf of itself and for the Cartage Union Relations
Bureau, representing twenty-one (21) Companies (Appli-
cant) v. General Truck Drivers' Union Local No. 938
affiliated with the International Brotherhood of
Teamsters, Chauffeurs, Warehousemen and Helpers of
America, A.F. of L. (Respondent). (WITHDRAWN).

5405-62-U: Fraser-Brace Engineering Company Limited
(Applicant) v. Mortimer Collings et al (Respondent).
(WITHDRAWN).

5444-62-U: Dominion Steel & Coal Corporation Limited
(Applicant) v. United Steelworkers of America, Local
5629 (Respondent). (WITHDRAWN).

5448-62-U: Dominion Steel & Coal Corporation, Limited
(Applicant) v. M. Achtemijchik et al (Respondent).
(WITHDRAWN).

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF
DURING FEBRUARY, 1963

4026-62-U: Lynch Cartage Limited (Applicant) v. Milton Price et al (Respondents). (DISMISSED).

The Board endorsed the Record as follows:

"Application dismissed due to the non-appearance of the applicant."

4027-62-U: C.W. Henderson Cartage Limited (Applicant) v. D. Boulange et al (Respondents). (WITHDRAWN).

4029-62-U: Ben Tepper, Jack Gorelick, carrying on business under the firm name and style of Toronto Cartage Company (Applicant) v. Ronald McFeeters et al (Respondents). (DISMISSED).

The Board endorsed the Record as follows:

"Application dismissed due to the non-appearance of the applicant."

4030-62-U: Tomlinson Cartage Limited (Applicant) v. G. Biesma et al (Respondents). (DISMISSED).

The Board endorsed the Record as follows:

"Application dismissed due to the non-appearance of the applicant."

4031-62-U: Mack Cartage Ltd. (Applicant) v. G.T. Brown, et al (Respondents). (WITHDRAWN).

4032-62-U: J.A. Service & Son Limited (Applicant) v. G. Reigate, et al (Respondent). (WITHDRAWN).

4033-62-U: J.A. Service & Son Limited on behalf of itself and other cartage companies (Applicant) v. Jake Robinson (Respondent). (WITHDRAWN).

4034-62-U: J.A. Service & Son Limited on behalf of itself and other cartage companies (Applicant) v. Lloyd Merritt (Respondent). (WITHDRAWN).

5196-62-U: J. Becker Incorporated (Applicant) v. William Buckland et al (Respondents). (WITHDRAWN).

5406-62-U: Fraser-Brace Engineering Company Limited (Applicant) v. Mortimer Collings et al (Respondents). (WITHDRAWN).

5428-62-U: Louis Ciczian (Applicant) v. International Harvester Company of Canada Limited (Hamilton Works) (Respondent). (DISMISSED).

The Board endorsed the Record as follows:

"This application does not disclose on its face any allegation that the respondents have contravened any provision of The Labour Relations Act. In view of these circumstances and in accordance with the provisions of section 45 of the Board's Rules of Procedure, the Board is of the opinion that the applicant has failed to make a prima facie case for the remedy requested and the application is therefore dismissed."

COMPLAINTS TO THE LABOUR RELATIONS BOARD UNDER SECTION 65
DISPOSED OF DURING FEBRUARY, 1963

5016-62-U: Amalgamated Meat Cutters and Butcher Workmen of America (Complainant) v. Riverside Poultry Company Limited (Respondent).

The Board endorsed the Record as follows:

"Settlement of the complaint having been effected by the Field Officer, and the complainant having requested leave to withdraw its complaint, the Board grants leave to the complainant to withdraw the complaint in this matter."

5223-62-U: District 50, United Mine Workers of America (Complainant) v. Canadian Hardwoods Limited (Respondent).

5262-62-U: Geraldine Weyman (Complainant) v. Alpha Aracon Radio Company Ltd. (Respondent).

5306-62-U: Food Handler's Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Complainant) v. Busy B Discount Foods Limited (Township of Westminster) (Respondent).

5328-62-U: The Hotels, Clubs, Restaurants, Taverns Employees' Union Local 261, Chartered by the Hotel Restaurant Employees and Bartenders International Union (Complainant) v. Beacon Arms Hotel, owned and operated by Beacon Realty Co. Limited (Ottawa) (Respondent).

5376-62-U: Upholsterers' International Union of North America, through its Agent Local #30 (Complainant) v. Reliance Furniture Mfg. Limited (Respondent).

5393-62-U: Printing Specialties and Paper Products Union Local 466 (Complainant) v. Manbert Packaging Products Ltd. (Respondent).

5394-62-U: The Hotel Clubs, Restaurant, Taverns Employees' Union Local 261, Chartered by The Hotel Restaurant Employees and Bartenders International Union (Complainant) v. Beacon Arms Hotel, Owned and operated by Beacon Realty Co. Limited (Respondent).

5427-62-U: Louis Viczian (Complainant) v. International Harvester Company of Canada Limited (Hamilton Works) (Respondent).

The Board endorsed the Record as follows:

"This complaint does not disclose on its face any ground for relief under section 65 of The Labour Relations Act. In view of these Circumstances and in accordance with the provisions of section 45 of the Board's Rules of Procedure, the Board is of the opinion that the complainant has failed to make a prima facie case for the remedy requested and the complaint is therefore dismissed."

5436-62-U: International Hod Carriers Building and Common Labourers Union of America, Local 607 (Complainant) v. Hacquoil Construction Ltd. (Port William) (Respondent).

REQUEST FOR RECONSIDERATION OF CERTIFICATION APPLICATION
DISPOSED OF BY THE BOARD

3596-62-R: The National Union of Public Employees (Applicant) v. The Corporation of the County of Lambton (Jail Employees, Lambton County) (Respondent) (TERMINATED MAY 1962).

On February 6, 1963, the Board further endorsed the Record as follows:

"On April 25th, 1962, the applicant trade union applied to this Board to be certified as bargaining agent for a unit of all jail employees of the respondent municipal corporation with certain exceptions not here material. On May 7th, 1962, the respondent filed a reply to the application together with a certified true copy of Municipal By-Law No. 199 purporting to declare, pursuant to section 89 of The Labour Relations Act, that this Act "shall not apply to The Corporation of the County of Lambton with respect to its employees or any of them". In paragraph 10 of its reply, a copy of which was sent to the applicant on May 7th, it is stated as follows:-

On the 30th day of July, 1956 By-Law No. 199 for the Corporation of the County of Lambton was passed pursuant to the authority of the Labour Relation's Act R.S.O. 1950, Chapter 194, Section 78. It is respectfully submitted by the Respondent that this By-Law passed in open council removes the authority of the Ontario Labour Relation's Board to certify any union as a bargaining agent of the Jail employees.

The application thereafter came on for hearing at Toronto on May 16th, 1962. We are told by counsel for the respondent and this is not denied by the representative for the applicant, that the applicant's representative at this hearing was invited by the Board to look at the by-law which he did. He is then reported to have said words to the effect that there was "nothing wrong with it". On the basis of this by-law and in the absence of any challenge having been made to it by the applicant's representative, the Board declined to proceed further with the application and on May 17th, 1962, endorsed the record as follows:-

2. The Board finds that the respondent is a municipality as defined in the Department of Municipal Affairs Act, and that it has declared, pursuant to the provisions of section 78 of The Labour Relations Act, R.S.O. 1950, c. 194 (now section 89 R.S.O. 1960, c 202) that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and the application is accordingly terminated.

This same applicant on November 5th, 1962, applied for certification for a bargaining unit comprising jail employees of the Corporation of the County of Norfolk (Board File No. 4329-62-R hereinafter called the Norfolk case). On or about November 22nd, 1962, the Board released its decision in the Norfolk case which in so far as it is material here states as follows:-

2. The respondent filed with the Board a certified copy of a by-law of the respondent which purports to declare that The Labour Relations Act does not apply to it in its relations with its employees or any of them, pursuant to the provisions of section 89 of the Act. However, section 5 of the Penal and Reform Institutions Inspection Act, R.S.O. 1960, c.291, reads as follows:

"Any [No] by-law, rule or regulation of a municipality relating to a jail or lockup established or maintained by it has force or shall take effect until approved by the Minister".

3. The respondent informed the Board that the by-law enacted by the respondent in this matter has not been submitted to the Minister of Reform Institutions for approval and accordingly, pursuant to the provisions of section 5 of the Penal and Reform Institutions Inspection Act, the by-law can have no effect in so far as it relates to the jail employees of the respondent.

4. The Board further finds that all jail employees of the respondent in Norfolk County, save and except the chief turnkey and persons above the rank of chief turnkey, constitute a unit of employees of the respondent appropriate for collective bargaining.

5. The Board is satisfied on the basis of all the evidence before it that more than fifty-five per cent of the employees of the respondent in the bargaining unit, at the time the application was made, were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

6. A certificate will issue to the applicant.

Thereafter, and for the first time, the applicant on November 27th, 1962, applied for reconsideration of the Board's decision of May 17th, 1962. It alleges as its sole ground therefor that By-Law 199 was and still is inoperative under section 39 of The Labour Relations Act because, as the applicant argues, it has not been approved by the Minister of Reform Institutions pursuant to section 5 of the Penal and Reform Institutions Inspection Act. It seems obvious that until the decision of the Board in the Norfolk case, the applicant had no intention whatever to ask the Board for reconsideration of its decision or to challenge the validity of By-Law 199.

If the Board were to accede to the applicant's request to reopen this case and set aside its decision of May 17th, it would now for the first time be faced with an inquiry into the question of the appropriateness and composition of the bargaining unit and the evidence of membership filed by the union. The Board, of course, had not made any inquiry into these matters before the application was dismissed. This inquiry would, of course, be restricted to the facts as they existed on the date of the application, April 25th, 1962. Such an inquiry at this time might well put one or other of the parties at an unfair disadvantage in the presentation of evidence

and argument. The consequences of reopening a decision are, of course, always relevant in determining whether or not the Board should review or reconsider a previous decision.

It is obvious that whatever rights an applicant may have to make a new application, some limit must be imposed as to the time and circumstances under which the Board should reopen and review a former decision on the grounds that in the meantime the Board has rendered another decision which appears to indicate that the Board's earlier decision may be erroneous. There must obviously be instances in the growing jurisprudence of this Board where interpretations of law and policy and findings of fact applied by the Board in earlier cases will, as a result of new arguments and experience and further consideration, be decided differently in later cases. It would, however, be too much to say that whenever the Board alters or overrules an interpretation of law or policy or finding of fact which it had followed or adopted in earlier cases, that it must or should in all events, review and reopen all such earlier cases whatever the circumstances or the length of time which may have elapsed in the meantime. In the courts the fact that the law as applied in an earlier judgment in another case is later overruled by a higher court in another case, does not afford, on that basis alone, a ground for allowing a litigant in the former case leave to appeal where the time prescribed by the rules therefor has expired. (See Re Blackwell (1962) D.L.R. (2d) 369).

It is clear that whether all the procedural requirements necessary to the validity of a by-law have been complied with or not is a question of both fact and law. If a certified copy of a by-law filed with this Board appears to be regular and proper on the face of it, and there is no challenge to its validity, the Board will, generally, as it did in this case, presume that all the conditions precedent to its validity have been complied with and that it is a valid by-law. If a party applicant does not accept the validity of a by-law filed with the Board it is incumbent upon it to take prompt action to ensure that its challenge and the basis therefor is made known to the respondent municipality and

and to the Board. If the representative of the applicant at the hearing stands by in silence, then the Board will likely assume that he has accepted the validity of the by-law. Indeed in this case, we must find that the representative of the union at the original hearing in fact conceded the validity of the by-law.

The parties to proceedings before this Board have a responsibility to ensure that the Board's attention is drawn to all available evidence, and common law and statutory authorities bearing upon the issues before it. If the Board on the basis of insufficient evidence placed before it, finds that by virtue of section 89 of the Act, it does not have jurisdiction over the subject matter, the objective existence in fact of other evidence not presented cannot for purposes of the case before it establish such jurisdiction. The Board, whether it is considering a matter of its jurisdiction or otherwise, can only act on the evidence placed before it. If a party relying on the existence of the Board's jurisdiction has access to evidence which will establish its jurisdiction and fails to adduce it, then subject to the Board's discretion in the circumstances to review the matter, such party must bear the consequences of its own error or inadvertence in failing to bring such evidence before the Board.

The responsibility clearly fell upon the applicant if it intended to dispute the validity of the by-law to raise its objections at the original hearing. As the grounds now alleged as constituting a basis for its objections to its validity do not disclose any new matters which could not with reasonable diligence have been raised at the original hearing, and having regard to the time which has now elapsed since that hearing, we do not think it advisable for us to reopen and reconsider the Board's decision of May 17th, 1962.

For the foregoing reasons the applicant's request for reconsideration is denied."

Board Member D.B. Archer dissented and said:

"I dissent. The grounds for the applicant's request that the Board reconsider its decision of May 17th, 1962, is that the Board in arriving at this decision erred in a matter relating to its jurisdiction. The situation which existed at the time when this decision was made and at the time of the hearing on the request for review indicate that the Board did and still has jurisdiction under the Labour Relations Act to certify the applicant. In these circumstances, it is not competent, in my view, for the Board to decline to review its decision which is based on an erroneous conclusion as to its jurisdiction. I would have set aside the Board's decision of May 17th, 1962, and dealt with the merits of the application."

3697-62-R: The National Union of Public Employees (Applicant) v. Corporation of the County of Peterborough (Jail employees) (TERMINATED MAY 1962).

On February 6, 1963 the Board further endorsed the Record as follows:

"On May 8th, 1962, the applicant applied for certification for a bargaining unit consisting of all jail employees of the respondent with certain exceptions not here material. On or about May 29th, 1962, the Board released its decision which in so far as it is material for present purposes is as follows:-

3. The respondent has filed with the Board a copy of By-Law No. 2024, of the Corporation of the County of Peterborough wherein it states that the respondent is a Municipality within the meaning of the Department of Municipal Affairs Act, and providing that the Labour Relations Act R.S.O. 1950, Chapter 202 and amendments thereto shall not apply to the respondent in its relations with its employees or any of them.

4. The Board finds that the respondent is a municipality as defined in the provisions of The Municipal Affairs Act and that it has declared pursuant to the provisions of section 89 of The Labour Relations Act that The Labour Relations Act shall not apply to it in its relations with its employees or any of them.

In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and in accordance with the provisions of section 45 of the Board's Rules of Procedure, the Board is of the opinion that the applicant has failed to make out a prima facie case for the remedy requested and the application is therefore dismissed.

This same applicant on November 5th, 1962, applied for certification for a bargaining unit comprising the jail employees of the Corporation of the County of Norfolk (Board File No. 4829-62-R). On or about November 22nd, 1962, the Board released its decision in the latter case which in part reads as follows:-

The respondent filed with the Board a certified copy of a by-law of the respondent which purports to declare that The Labour Relations Act does not apply to it in its relations with its employees or any of them, pursuant to the provisions of section 89 of the Act. However, section 5 of the Penal and Reform Institutions Inspection Act, R.S.O. 1960, c. 291, reads as follows:

"Any [No] by-law, rule or regulation of a municipality relating to a jail or lock-up established or maintained by it has force or shall take effect until approved by the Minister".

The respondent informed the Board that the by-law enacted by the respondent in this matter has not been submitted to the Minister of Reform Institutions for approval and accordingly, pursuant to the provisions of section 5 of the Penal and Reform Institutions Inspection Act, the by-law can have no effect in so far as it relates to the jail employees of the respondent.

The Board further finds that all jail employees of the respondent in Norfolk County, save and except the chief turnkey and persons above the rank of chief turnkey, constitute a unit of employees of the respondent appropriate for collective bargaining.

The Board is satisfied on the basis of all the evidence before it that more than fifty-five per cent of the employees of the respondent in the bargaining unit, at the time the application was made,

were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

A certificate will issue to the applicant.

Thereafter, and for the first time, the applicant on November 28th, 1962, applied for reconsideration of the Board's decision of May 29th, 1962. It alleges as its sole ground therefor that the by-law purporting to invoke section 89 of The Labour Relations Act was and still is inoperative because it has not been approved by the Minister of Reform Institutions pursuant to section 5 of The Penal and Reform Institutions Inspection Act. It seems obvious that until the decision of the Board in the Norfolk case, the applicant had no intention whatever to ask the Board for reconsideration of its decision or to challenge the validity of the by-law in this case.

The dismissal of this application on May 29th, was made pursuant to section 45 of the Board's Rules of Procedure. Section 45 (2) of the Board's Rules provides as follows:-

- (2) The applicant or complainant may within ten days after he is served with the decision of the Board under subsection 1 request the Board to review its decision.

It is apparent that the applicant has failed to comply with the provisions of section 45 (2) of the Board's Rules of Procedure.

In our view the applicant has not established any good reason why the Board should now enlarge the time provided by section 45 (2) of the Board's Rules of Procedure for applying for review of its decision of May 29th, 1962. On the contrary, if the Board were now to entertain the application for review and reopen its decision of May 29th, 1962, there is every reason to expect that the parties might well be put to a disadvantage in the presentation of evidence or argument based on the facts as they existed at the time of the application, May 8th, 1962. The consequences of reopening a decision are, of course, always relevant in determining whether or not the Board

should review or reconsider a previous decision. It was the applicant's responsibility to bring an application for review within the time provided by section 45 (2) of the Board's Rules of Procedure. It has not done so, nor has it in our view given any valid reason in the circumstances why we should at this belated hour, extend the time to permit it to do so. The argument which the applicant persuaded the Board to accept in the Norfolk Case has always been available to it in this case and could just as easily and with reasonable diligence in the preparation and presentation of this case have been raised by the applicant at a much earlier and timely date.

For the foregoing reasons and for the reasons given in the Corporation of the County of Lambton Case (Board File No. 3596-62-R) we do not deem it advisable to reopen or reconsider the decision of the Board of May 29th, 1962.

The applicant's request for reconsideration is, therefore, denied."

Board Member D.B. Archer dissented and said:

"I dissent. For the reasons given by me in the Corporation of the County of Lambton Case, I would have allowed the applicant's request for reconsideration."

4189-62-R: United Brotherhood of Carpenters & Joiners of America A.F.L. C.I.O. C.L.C. (Applicant) v. C.H. Heist Limited (Industrial Water Cleaning Division, at and out of Sarnia) (Respondent). v. Local Union 1590 of Brotherhood of Painters, Decorators and Paper hangers of America, A.F.L.-C.I.O. (Intervener). (DISMISSED AUGUST 1962).

On February 19, 1963 the Board further endorsed the Record as follows:

"For the reasons given by the Board at the hearing the applicant's request for reconsideration is denied."

4232-62-R: The National Union of Public Employees (Applicant) v. The Municipal Corporation of the County of Middlesex (Jail employees) (DISMISSED AUGUST 1962).

On February 6, 1963 the Board further endorsed the Record as follows:

"On August 8th, 1962, the Board dismissed the applicant's application for certification as bargaining agent for a bargaining unit of the respondent's jail employees. The reason for the dismissal of this application as it appears in the Board's written decision of August 8th, 1962, is to the effect that the respondent municipality had passed a by-law pursuant to section 89 of The Labour Relations Act declaring that this Act does "not apply to its relations with its employees or any of them".

The applicant seeks reconsideration of the Board's decision of August 8th, 1962, and states as its only ground therefor that the by-law in question is inoperative because it was not approved by the Minister of Reform Institutions pursuant to section 5 of The Penal and Reform Institutions Inspection Act.

Since the date of the hearing of the applicant's request for reconsideration, however, the respondent municipality filed with the Board a certified photostatic copy of the by-law bearing the signature of the Minister of Department of Reform Institutions approving the by-law "insofar as it relates to a jail or lock-up". Notice of the filing of this document bearing the approval of the said Minister was given to the applicant and the applicant was afforded the opportunity to make its submissions if any thereto. The applicant has made no objections to nor otherwise challenged the validity of this document.

It is manifest, therefore, that the applicant's objection to the by-law has been met. In these circumstances and apart from any other consideration, the applicant's request for reconsideration is denied."

4537-62-R: National Union of Public Employees (Applicant) v. The Corporation of the County of Brant (Jail employees). (TERMINATED OCTOBER 1962).

On February 6, 1962 the Board further endorsed the Record as follows:

"Having regard to the Board's decision in The Corporation of the County of Lambton Case (Board File No. 3596-62-R) the applicant's request for reconsideration is denied.

It may also be pointed out that since the hearing on the request for reconsideration the municipality has filed a certified photostatic copy of By-Law 1241 bearing the approval of the Minister of Reform Institutions "in so far as it relates to jail or lock-up."

Board Member D.B. Archer dissented and said:

"Apart from the question of the approval which now appears to have been given by the Minister of Reform Institutions to the By-Law, I would have allowed the applicant's request for reconsideration for the reasons given by me in The Corporation of the County of Lambton Case."

CERTIFICATION INDEXED ENDORSEMENTS

5207-62-R: International Union of Operating Engineers, Local 700 (Applicant) v. Firestone Tire & Rubber Company of Canada Limited (Respondent) v. United Rubber, Cork, Linoleum and Plastic Workers of America, Local 113 (Intervener).
(DISMISSED FEBRUARY 1963).

The Board endorsed the Record as follows:

"Application for certification.

The applicant, the International Union of Operating Engineers, Local 700, seeks to sever a group of maintenance electricians from an industrial unit consisting of all employees of the respondent at Hamilton with certain exceptions not here relevant. The whole tenor of the argument of counsel for the applicant is that the electricians concerned form a craft group distinguishable from the other employees, that the present applicant is entitled to invoke the mandatory provisions of subsection 2 of section 6 of The Labour Relations Act on their behalf, and that the circumstances of the present relationship between the maintenance electricians and the intervener, which is the

incumbent, are such that the Board ought to recognize the special interest of the maintenance electricians and permit them to select their own bargaining agent. At the hearing, we drew the attention of counsel to the fact that the concluding words of subsection 2 of section 6-- "but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made"-- do not come into play until the earlier provisions of the subsection have been met. In other words, these words do not apply until the applicant has shown that, but for the provision just quoted which was added in 1960, the applicant would have been entitled to certification for a craft unit consisting in this case of maintenance electricians. We indicated to the parties that we would hear evidence and argument on the first phase of the case --whether the applicant was entitled to invoke the mandatory provision of section 6, subsection 2-- and, if our decision was favourable to the applicant, another hearing would be held to afford the parties an opportunity to present evidence on the second phase of the case, i.e., whether in the circumstances of this case the Board ought to sever a unit of maintenance electricians from an established bargaining unit.

The sole witness called by the applicant, the business agent of the applicant, frankly admitted that he knew of no instance either in Canada or in the United States, where the applicant or its parent body represented a craft unit of maintenance electricians. He did refer the Board to certificates issued by the Board to the International Union of Operating Engineers, Local 944 and to the International Union of Operating Engineers, Local 796, for employees at the J. Clark Keith Generating Station and the Richard L. Hearn Generating Station of the Hydro Electric Power Commission of Ontario as examples of instances in which sister locals of the applicant bargained for electricians. However, when these files were produced at the hearing,

it was evident that the Board in those cases had certified the respective locals of the International Union of Operating Engineers as bargaining agents for employees in an industrial and not a craft unit. The only other instances in Canada to which the witness referred us in which any local of the International Union of Operating Engineers represented electricians was in the City of Hamilton incinerator and water works plants and at the civic hospitals in Hamilton; all of those civic operations at one time apparently constituted one bargaining unit but were subsequently split up by agreement of the parties into several units, one for each operation, and a separate agreement negotiated with respect to the employees in each operation. In each of these instances, the electricians formed part of a larger unit which consisted primarily of employees in the classifications which are commonly included in the "operating engineers" craft. The witness also referred us to a Survey of Current Contracts in Effect Between The Local Unions of The International Union of Operating Engineers and The Employers in The Chemicals, Plastics and Allied Products Industries in the United States. This survey deals with agreements on file with the International Union of Operating Engineers as of November 30, 1962. A perusal of this survey discloses that, where maintenance electricians are covered by the agreements in the survey, they are included either in what happens to be an industrial unit or, at best in a unit which might properly be described as a craft unit of stationary or hoisting engineers. In none of the agreements included in the survey do any of the locals of the International Union of Operating Engineers appear to represent electricians as a craft unit standing alone.

An applicant which seeks to bring itself within the mandatory provisions of subsection 2 of section 6 of the Act must establish three things: (i) that the employees whom it is seeking to represent are employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from other employees; (ii) that they commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or craft, (iii) that the application is made by a trade union pertaining to such skills or craft.

We shall assume for present purposes that the applicant has established the first of these conditions, although it should be pointed out that there was no evidence before us on this score, other than the statement of counsel for the respondent, which was not challenged or contradicted, that the 15 maintenance electricians constitute one of the occupational classifications in the maintenance department of the respondent at Hamilton. In this connection we were also informed by counsel for the respondent that the maintenance department consists of some 90 employees in 11 different classifications.

The second condition presents the applicant with greater difficulty. Electricians in the construction industry have almost invariably been recognized by the Board as constituting a craft group where certification on their behalf has been sought by recognized electricians' craft unions such for example as the International Brotherhood of Electrical Workers or its locals. In the ship building and paper making industries, a number of employers have voluntarily recognized craft unions, including the International Brotherhood of Electrical Workers or its locals, as the bargaining agents for craft units. The first of these industries has many of the characteristics of the construction industry and in many establishments in the paper making industry there is a long history of bargaining on craft lines. However, in manufacturing in general, it is the rare exception rather than the rule for the Board to determine that any classification of maintenance mechanics constitutes a craft unit, the reason being that the several craft unions that have applied for certification for such units have rarely succeeded in showing that according to established trade union practice they commonly bargain for the respective classifications in the maintenance department separately and apart from other employees. On the basis of the principles that the Board has applied in past in cases of this nature, and having regard to the evidence adduced in this case, we find that the applicant failed to show that any union pertaining to the craft of electricians commonly bargains for maintenance electricians in circumstances such as those disclosed in this application.

However, let us assume for present purposes that the applicant has met the second condition. In so far as the third condition is concerned, counsel for the applicant contended that the International Union of Operating Engineers and its locals pertain to the skill or craft of maintenance electricians. In this connection he told us that he was relying on the dictionary meaning of the word "pertaining", which speaks in terms of "belonging to" or being "associated with", that the electricians were closely associated with the stationary and hoisting engineers and that, by virtue of such association, they were included in a number of bargaining units for which the International Union of Operating Engineers or its locals were the bargaining agents. If the word "pertaining" were given such broad meaning, it would follow that any trade union, which could show that it included electricians in its membership and that electricians were included in bargaining units for which it bargained, would be able to claim craft rights under the provisions of subsection 2 of section 6. If this interpretation of the subsection were adopted, industrial unions, almost without exception, would be able to fragmentize every industrial or commercial undertaking in which craftsmen were employed and to organize and be certified for one craft at a time. Such an approach to subsection 2 of section 6 would be so foreign to the history and practices of collective bargaining in this Province during the last two decades that it would require the clearest language in the subsection to convince us that that is what the Legislature intended. In our opinion, the word "pertaining" must be given a more restricted meaning. The meaning which commends itself to us appears in the Shorter Oxford Dictionary and it is "to be appropriate to". That indeed is the principle that has been followed by the Board since the present Act came into effect in interpreting and applying this subsection. In that sense, the International Union of Operating Engineers and its locals are not trade unions pertaining to the skill or craft of maintenance electricians. Since the bargaining unit proposed by the applicant union is not, in view of the foregoing considerations, an appropriate bargaining unit, and since the membership position of the applicant does not entitle it to be certified in any other unit that the Board might deem to be appropriate, this application is dismissed.

5234-62-R: The Canadian Union of Operating Engineers
(Applicant) v. St. Marys General Hospital(Kitchener)
(Respondent). (DISMISSED FEBRUARY 1963).

The Board endorsed the Record as follows:

"The applicant is applying for certification as bargaining agent for all stationary engineers and their helpers and maintenance men and their helpers, employed by the respondent, save and except the chief engineer. The applicant was certified by this Board on August 27, 1961, as bargaining agent for all stationary engineers, save and except the chief engineer. It is the policy of this Board to refuse to certify any party as bargaining agent for any group of employees for whom the said party already has bargaining rights(see Loblaw Groceterias Case 1944, D.L.S. 7-1115). Accordingly, in the instant case this Board will not issue a certificate to the applicant as bargaining agent for the stationary engineers employed by the respondent.

The balance of the bargaining unit applied for by the applicant is maintenance men and their helpers. This group of employees is in no way distinguishable from other employees so as to constitute a craft unit as contemplated by section 6 (2) of The Labour Relations Act. Moreover, there is no evidence of any history of the applicant acting as bargaining agent for such a group of employees. In these circumstances, the Board is unable to find any basis upon which the said maintenance men and their helpers would constitute an appropriate unit for collective bargaining. It may be that the said maintenance employees would form part of an appropriate unit in an original application for certification of the stationary engineers employed by the respondent. In the instant case, however, it is not necessary to make such a finding in view of the previous certification of the stationary engineers.

Since no bargaining rights are in existence with respect to any of the employees of the respondent other than the stationary engineers, we are of the opinion that an appropriate unit

for collective bargaining would be the usual "hospital unit", that is to say, an all employee unit with certain exception not here material.

Having regard to the fact that there are approximately 500 persons in the employ of the respondent, this Board is satisfied on the basis of all the evidence before it that less than forty- five per cent of the employees of the respondent in any possible appropriate bargaining unit, at the time the application was made, were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

The application, accordingly, is dismissed.

TERMINATION INDEXED ENDORSEMENTS

5263-62-R: Employees of Ray's Haulage Ltd.(Applicant)
v. General Truck Drivers Union Local 879, Hamilton
(Respondent). (DISMISSED, FEBRUARY 1963).

(Re: Ray's Haulage Ltd.,
St. Catharines, Ontario)

The Board endorsed the Record as follows:

"Employees of Ray's Haulage Ltd. filed with the Board an application for a declaration terminating bargaining rights dated December 29th, 1962, over the signature of Bernard Coutu, an employee of the above company.

Under clause 5 of the application entitled "Other relevant statements" appears the following sentence: "Attached is a list of employees, who have signed voluntarily, that they no longer wish to be represented by General Truck Drivers Union Local 879, Hamilton." The document attached to the application bears the signatures and addresses of eleven employees of Ray's Haulage Ltd. No other wording appears on the document.

It is clear from the evidence of Bernard Coutu that the document was not attached to the application at the time the signatures of the employees were secured. We have only the viva voce testimony of Coutu that the employees who signed the document knew that the document was in support of an application to terminate the bargaining rights of the respondent.

The document standing by itself, however, in no way indicates the purpose or intent of the persons whose signatures appear upon it. In these circumstances we are of the opinion that there is not sufficient evidence before us as to the desire of the employees for this Board to issue the declaration applied for by the applicant.

The application, accordingly, is dismissed."

SPECIAL ENDORSEMENTS IN CONCILIATION SERVICES
APPLICATIONS DISPOSED OF BY THE BOARD

4563-62-C: Welders, Public Garage Employees, Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Hi-Grade Body & Collision Services (Toronto) (Respondent). (DISMISSED FEBRUARY, 1963)

The Board endorsed the Record as follows:

"In its decision dated February 4th, 1963 in File No. 5097-62-R the Board declared that the present applicant no longer represented the employees of the respondent on whose behalf the present application for conciliation services is made.

This application is accordingly terminated."

PART 2

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5.	Representation Votes in Certification Applications Disposed of by Board	S53
6.	Representation Votes in Termination Applications Disposed of by Board	S54

TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

		Number of applications filed		
		Feb. 1st 1963	11 months of 62-63	fiscal year 61-62
I	Certification	75	693	743
II	Declaration Terminating Bargaining Rights	6	83	71
III	Declaration of Successor Status	1	12	9
IV	Cconciliation Services	98	1095	1096
V	Declaration that Strike Unlawful	3	30	39
VI	Declaration that Lockout Unlawful	-	8	2
VII	Consent to Prosecute	6	81	101
VIII	Complaint of Unfair Practice in Employment (Section 65)	13	131	118
IX	Miscellaneous	<u>1</u>	<u>20</u>	<u>19</u>
	TOTAL	<u>203</u>	<u>2153</u>	<u>2198</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

		Number		
		Feb. 1st 1963	11 months of 62-63	fiscal year 61-62
Hearings & Continuation of Hearings by the Board		100	1107	894

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

		Number of applications disposed of Feb. 1st 11 months of fiscal year		
		<u>1963</u>	<u>62-63</u>	<u>61-62</u>
I	Certification	60	764	709
II	Declaration Terminating Bargaining Rights	8	83	64
III	Declaration of Successor Status	-	4	9
IV	Conciliation Services	94	1077	1119
V	Declaration that Strike Unlawful	4	30	37
VI	Declaration that Lockout Unlawful	-	10	2
VII	Consent to Prosecute	11	134	108
VIII	Complaint of Unfair Practice in Employment (Section 65)	10	135	116
IX	Miscellaneous	<u>2</u>	<u>17</u>	<u>17</u>
TOTAL		<u>189</u>	<u>2254</u>	<u>2181</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

Disposition	Feb. 1st 11 mos.fiscal yr.			*Employees		
	<u>'63</u>	<u>62-63</u>	<u>61-62</u>	<u>'63</u>	<u>62-63</u>	<u>61-62</u>
I Certification						
Granted	34	501	440	1542	28868	12325
Dismissed	18	197	160	1013	11956	7473
Withdrawn	<u>8</u>	<u>66</u>	<u>109</u>	<u>113</u>	<u>2514</u>	<u>2753</u>
TOTAL	<u>60</u>	<u>764</u>	<u>709</u>	<u>2668</u>	<u>43338</u>	<u>22551</u>
II Termination of Bargaining Rights						
Terminated	8	54	18	207	1629	536
Dismissed	2	23	43	25	532	820
Withdrawn	<u>-</u>	<u>8</u>	<u>3</u>	<u>-</u>	<u>233</u>	<u>96</u>
TOTAL	<u>10</u>	<u>85</u>	<u>64</u>	<u>232</u>	<u>2394</u>	<u>1452</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

	Number of appl'ns dis. of Feb. 1st 11 mos. fiscal year		
	'63	62-63	61-62

III Conciliation Services*

Referred	91	973	1062
Dismissed	2	24	13
Withdrawn	<u>1</u>	<u>80</u>	<u>44</u>
TOTAL	<u>94</u>	<u>1077</u>	<u>1119</u>

IV Declaration that Strike Unlawful

Granted	-	6	5
Dismissed	-	7	2
Withdrawn	<u>4</u>	<u>17</u>	<u>30</u>
TOTAL	<u>4</u>	<u>30</u>	<u>37</u>

V Declaration that Lockout Unlawful

Granted	-	1	-
Dismissed	-	6	1
Withdrawn	<u>-</u>	<u>2</u>	<u>1</u>
TOTAL	<u>-</u>	<u>9</u>	<u>2</u>

VI Consent to Prosecute

Granted	-	18	33
Dismissed	4	17	15
Withdrawn	<u>7</u>	<u>99</u>	<u>62</u>
TOTAL	<u>11</u>	<u>134</u>	<u>110</u>

*Includes applications for conciliation services re unions claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Number of Votes		
	Feb. 1963	1st 11 months of fiscal yr. 62-63	61-62
<u>*Certification After Vote</u>			
pre-hearing vote	2	34	50
post-hearing vote	5	32	38
ballots not counted	-	2	-
<u>Dismissed After Vote</u>			
pre-hearing vote	-	15	18
post-hearing vote	5	65	46
ballots not counted	-	1	10
TOTAL	<u>12</u>	<u>149</u>	<u>162</u>

*Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Number		
	Feb. 1963	1st 11 months of fiscal yr. 62-63	61-62
<u>*Respondent Union Successful</u>			
Respondent Union Unsuccessful	<u>7</u>	<u>27</u>	<u>17</u>
TOTAL	<u>7</u>	<u>32</u>	<u>20</u>

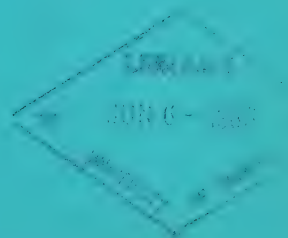
*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the incumbent union is thus the respondent.

MONTHLY REPORT



MARCH 1963

ONTARIO LABOUR RELATIONS BOARD



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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING MARCH 1963

Bargaining Agents Certified During March
No Vote Conducted

4373-62-R: United Cement, Lime and Gypsum Workers International Union, AFL-CIO-CLC (Applicant) v. Peel Block Company Limited (Respondent).

Unit: "all employees of the respondent in Chinguacousy Township, save and except foremen, persons above the rank of foreman and office staff." (30 employees in the unit).

The Board endorsed the Record as follows:

"For the reasons given in writing and to the bargaining unit therein described a certificate will issue to the applicant."

Board Member H.F. Irwin said:

"For the reasons given in writing and subject to the reservations contained therein, I concur that a certificate should be issued to the applicant."

4631-62-R: Loblaw Workers' Council (Applicant) v. Super City Limited (Respondent).

Unit: "all employees of the respondent at its store in North York, save and except store managers, persons above the rank of store manager, office staff, persons regularly employed for not more than 24 hours per week and students employed during the school vacation period." (94 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

The Board endorsed the Record in part as follows:

"For the purposes of clarity the Board declares that A. Armstrong, J. Graham and H. Oswin are employees of the respondent included in the bargaining unit and that J. Brennan and Z. Nicoll exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act and are not included in the bargaining unit."

Board Member M.C. Hay dissented and said:

"I dissent. I would have found that A. Armstrong, J. Graham and H. Oswin exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act and are not included in the bargaining unit."

4977-62-R: Sheet Metal Workers' International Association, Local Union 269 (Applicant) v. Selkirk Metal Products Limited (Respondent).

Unit: "all employees of the respondent at Brockville, save and except foremen, persons above the rank of foreman and office and sales staff." (51 employees in the unit).

5224-62-R: International Hod Carriers Building and Common Labourers Union of America, Local # 506 (Applicant) v. Pre-Con Murray Ltd. (Respondent) v. International Union of Operating Engineers Local 793 (Intervener) v. Toronto and District Council of Carpenters and Millmen, of the United Brotherhood of Carpenters and Joiners of America (Intervener).

Unit A: "all employees of the respondent working in and out of Brampton and Richvale, save and except foremen, persons above the rank of foreman, office and sales staff." (242 employees in the unit).

A certificate will issue to the applicant, as bargaining agent for the employees in bargaining unit A.

5269-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. London Meat Market (Respondent).

Unit: "all employees of the respondent at London, save and except owner-manager and persons regularly employed for not more than 24 hours per week." (3 employees in the unit).

5278-62-R: Local Union 633, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Paragon Food Markets Ltd. (Respondent).

Unit: "all employees of the respondent employed in its meat departments in its stores at Newmarket, save and except persons employed for not more than 24 hours per week." (10 employees in the unit).

The Board endorsed the Record as follows:

"On the basis of the evidence contained in the examiner's report, the Board finds that D. May, meat manager, does not exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act, and is accordingly included in the bargaining unit."

Board Member R.W. Teagle dissented and said:

"I dissent. I would have found that D. May exercises managerial functions and should not be included in the bargaining unit."

5307-62-R: Retail Clerks International Association (Applicant)
v. Briarcrest Supermarkets Limited (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except store manager, persons above the rank of store manager, office staff, persons regularly employed for not more than 24 hours per week, and students employed for the school vacation period." (11 employees in the unit).

Board Member M.C. Hay dissented as to the inclusion of the assistant store manager in the bargaining unit.

5341-62-R: United Steelworkers of America (Applicant) v. McCoy Foundry Company Limited (Respondent).

Unit: "all employees of the respondent at 258 Catharine Street North, Hamilton, save and except foremen, persons above the rank of foreman and office staff." (18 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

5351-62-R: Canadian Guards Association (Applicant) v. Barnes Investigation Bureau Ltd. (Respondent).

Unit: "all employees of the respondent employed as security guards at the plant of Regent Refining (Canada) Ltd., at Port Credit, save and except sergeants and persons above the rank of sergeant." (5 employees in the unit).

5402-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Leeds-Richardson Co. Ltd. (Respondent) v. International Hod Carriers Building and Common Labourers Union of America, Local 506 (Intervener).

Unit: "all pile drivers in the employ of the respondent within a twenty-five mile radius from the Toronto City Hall, and including the Town of Newmarket, and an area bounded on the east by the westerly limits of the third concession road, running north and south, east of Yonge Street, on the north by the southerly limits of the first concession road, running east and west, north of Newmarket, on the west by the easterly limits of the first concession road running north and south, west of Yonge Street, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

5443-62-R: Building Service Employees' International Union, Local 204, A.F. of L - C.I.O., C.L.C. (Applicant) v. Excel Fluorescent Service Company (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except managers, persons above the rank of manager and office staff." (5 employees in the unit).

5445-62-R: United Packinghouse, Food and Allied Workers AFL-CIO-CLC (Applicant) v. Swift Canadian Co. Limited (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff and supervisory trainees."
(68 employees in the unit).

5452-62-R: Hamilton Printing Pressmen and Assistants Union No. 176 (Applicant) v. The Moore Printery Limited (Respondent).

Unit: "all pressmen, pressmen's assistants and their apprentices in the employ of the respondent at Hamilton, save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit).

5468-62-R: Canadian Transportation Workers' Union, No. 200, National Council of Canadian Labour (Applicant) v. Hodgson Taylor Co. Ltd. (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, those above the rank of foreman and office staff." (3 employees in the unit).

5478-62-R: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 141, Warehousemen and Miscellaneous Drivers (Applicant) v. Western News Company Limited (Respondent).

Unit: "all employees of the respondent at London, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (13 employees in the unit).

5480-62-R: International Hod Carriers', Building and Common Labourers' Union of America, Local 527 (A.F.L.-C.I.O.) (C.L.C.) (Applicant) v. Frankl of Canada Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent working at or out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (2 employees in the unit).

5486-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. Leeds-Richardson Company Limited (Respondent)

Unit: "all employees of the respondent engaged in the operation of cranes, shovels, bulldozers and similar equipment, and those primarily engaged in the repairing and maintaining of same, oilers, firemen and compressor operators within a twenty-five mile radius from the Toronto City Hall, and including the Town of Newmarket, and an area bounded on the east by the westerly

limits of the third concession road, running north and south of Yonge Street, on the north by the southerly limits of the first concession road, running east and west, north of New-market, on the west by the easterly limits of the first concession road running north and south, west of Yonge Street, save and except non-working foremen and persons above the rank of non-working foreman." (9 employees in the unit).

5499-62-R: International Hod Carriers Building and Common Labourers Union, Local # 493 (Applicant) v. The Foundation Company of Canada Limited (Respondent).

Unit: "all construction labourers of the respondent in the City of Sault Ste. Marie and in the Townships of Prince, Korah and Tarentorus and in the unorganised Townships of Parke and Awenge and in the townships immediately adjacent thereto, save and except non-working foremen and persons above the rank of non-working foreman." (158 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 532)

5500-62-R: The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada Local Union 221 (Applicant) v. Graves Bros. Ltd. (Respondent).

Unit: "all journeymen plumbers, journeymen pipefitters, journeymen steamfitters, journeymen pipe welders and Journeymen gas fitters and their apprentices in the employ of the respondent in the City of Kingston and in the County of Lennox-Addington westwardly from Kingston to Napanee, the Counties of Frontenac and Leeds and including that part of the County of Grenville west of Edward Street in the Town of Prescott, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

5512-62-R: Federal Labour Union, Local 24892 C.L.C. (Applicant) v. Dominion Electric Manufacturing Co. Ltd. (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, engineering staff and office and sales staff." (106 employees in the unit).

5515-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Tru-Line Construction Ltd. (Respondent).

Unit: "all construction labourers in the employ of the respondent working in the township of Mountjoy and in the townships immediately adjacent thereto, save and except non-working foremen and persons above the rank of non-working foreman." (11 employees in the unit).

The Board endorsed the Record in part as follows:

"The applicant has requested a bargaining unit covering nine counties or districts namely - Cochrane, Timiskaming, Nipissing, Algoma, Sudbury, Thunder Bay, Manitoulin, Haliburton, Parry Sound and Muskoka. While the applicant has filed collective agreements for a number of employers covering the Province of Ontario, it has not bargained specifically with respect to the area sought or any portion thereof. Indeed a number of other locals have bargaining rights for portions of the nine counties or districts. Moreover, the Board was informed by the International Hod Carriers' Building and Common Labourers' Union of America, by letter dated December 3, 1962, that the territorial jurisdiction of the applicant was Metropolitan Toronto, the Counties of York, Ontario, part of Parry Sound, Muskoka, Simcoe, Grey, Dufferin, Peel and Halton. If this be the territorial jurisdiction of the applicant only a small portion thereof falls within the area claimed by the applicant in this case. On the state of the material before the Board we are unable to see how we can give any weight to the claim for the geographic area made by the applicant in its application."

5530-62-R: International Chemical Workers Union (Applicant) v. Aulcraft Paints Limited (Respondent).

Unit: "all employees of the respondent at Toronto employed in Finishes Division Laboratory, save and except supervisors, persons above the rank of supervisor and office staff."
(10 employees in the unit).

5531-62-R: International Chemical Workers Union (Applicant) v. Union Gas Company of Canada, Limited (Respondent).

Unit: "all office employees of the respondent in the Simcoe District, save and except supervisors, those above the rank of supervisor, sales representatives, students hired during the school vacation period and casual employees."
(35 employees in the unit).

5534-62-R: Canadian Metal Workers Association (Applicant) v. Lakeshore Die Casting Limited (Respondent).

Unit: "all employees of the respondent at Oakville, save and except foremen, persons above the rank of foreman and office and sales staff." (83 employees in the unit).

5540-62-R: Sportswear Local 199, International Ladies Garment Workers Union (Applicant) v. Class-Time Sportswear Limited (formerly Class-Late Sportswear Limited) (Respondent).

Unit: "all employees of the respondent at Toronto, save and except foremen and foreladies, those above the rank of foreman and forelady, office and sales staff."
(21 employees in the unit).

The Board endorsed the Record in part as follows:

"On the evidence adduced at the hearing the respondent failed to satisfy the Board that there had been improper conduct on the part of an official of the applicant with respect to the organization of the employees of the respondent."

5542-62-R: International Molders and Allied Workers Union AFL. CIO. CLC. (Applicant) v. May Foundry Company Limited (Respondent).

Unit: "all employees of the respondent at its Clarke Street plant in Niagara Falls, save and except foremen, persons above the rank of foreman and office and sales staff."
(17 employees in the unit).

5548-62-R: United Brotherhood of Carpenters and Joiners of America Local Union 93 (Applicant) v. Fix Fast Ltd. (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent employed at or working out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (6 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 534)

5560-62-R: The National Union of Public Employees, C.L.C. (Applicant) v. The Municipal Corporation of the Township of Chapleau (Respondent).

Unit: "all employees of the respondent at Chapleau, save and except non-working foremen, those above the rank of non-working foreman and office staff."
(8 employees in the unit).

5563-62-R: International Hod Carriers', Building and Common Labourers' Union of America, Local 527 (A.F.L.-C.I.O.) (C.L.C.) (Applicant) v. Fix Fast Ltd. (Respondent).

Unit: "all construction labourers in the employ of the respondent working at or out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (13 employees in the unit).

5570-62-R: United Packinghouse, Food and Allied Workers
AFL-CIO-CLC (Applicant) v. Canada Packers Limited (Respondent).

Unit: "all employees of the respondent at its plant on Durham Street, Walkerton, save and except foremen, those above the rank of foreman, office and sales staff."
(95 employees in the unit).

5580-62-R: United Brotherhood of Carpenters & Joiners of America
(Applicant) v. Prepakt Construction Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent working in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman."
(17 employees in the unit).

5582-62-R: General Truck Drivers Local 879 International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers (Applicant)
v. Moore-McCleary Limited (Respondent).

Unit: "all employees of the respondent at Thorold, save and except foremen, persons above the rank of foreman and office and sales staff." (8 employees in the unit).

5583-62-R: International Hod Carriers, Building and Common Labourers Union of America, Local # 493 (Applicant) v. Dell Construction Co. Ltd. (Respondent).

Unit: "all construction labourers in the employ of the respondent within a radius of thirty-five miles from the City of Sudbury Federal Building, save and except non-working foremen and persons above the rank of non-working foreman."
(10 employees in the unit).

5586-62-R: The Canadian Union of Operating Engineers, Local 101
(Applicant) v. Wm. Wrigley Jr. Company Limited (Respondent).

Unit #1: "all stationary engineers employed by the respondent in the boiler room of its plant on Leslie Street in Metropolitan Toronto, save and except the chief engineer and persons above the rank of chief engineer."

Unit #2: "all stationary engineers employed by the respondent in the boiler room of its plant on Carlaw Avenue in Metropolitan Toronto, save and except the chief engineer and persons above the rank of chief engineer."

(9 employees are involved in the above two units).

5591-62-R: United Brotherhood of Carpenters and Joiners of America, Local 2486 (Applicant) v. Dell Construction Co. Ltd. (Respondent).

Unit: "all construction labourers in the employ of the respondent within a radius of thirty-five miles from the City of Sudbury Federal Building, save and except non-working foremen and persons above the rank of non-working foreman." (9 employees in the unit).

5593-62-R: Local Union 633, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Buehler Brothers Limited (Respondent).

Unit: "all employees of the respondent at Chatham regularly employed for not more than 24 hours per week, save and except manager, persons above the rank of manager, office staff and persons covered by a subsisting collective agreement between the applicant and the respondent." (4 employees in the unit).

5598-62-R: Local Union 633 Amalgamated Meat Cutters and Butcher Workmen of North America AFL/CIO (Applicant) v. Daniel Kohn carrying on business under the name of Kohn Brothers Meat Market (Respondent).

Unit: "all employees of the respondent at London, save and except owner-manager, persons regularly employed for not more than 24 hours per week and students employed during the school vacation period." (2 employees in the unit).

5599-62-R: International Association of Machinists (Applicant) v. United Flexible Metallic Tubing (Canada) Limited (Respondent).

Unit: "all employees of the respondent at Richmond Hill, save and except foremen, persons above the rank of foreman and office and sales staff." (16 employees in the unit).

5611-62-R: Brotherhood of Sealant Workers of Ontario (Canadian-Marietta Presstite Division, Georgetown) (Applicant) v. Presstite Division, Canadian-Marietta Limited (Respondent).

Unit: "all employees of the respondent at Georgetown, save and except foremen, persons above the rank of foreman and office staff." (14 employees in the unit).

5613-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. Alcan Colony Construction Company (Respondent).

Unit: "all employees of the respondent engaged in the operation of cranes, shovels, bulldozers and similar equipment, and those primarily engaged in the repairing and maintaining of same, in the District of Thunder Bay, save and except non-working foremen and persons above the rank of non-working foreman."
(3 employees in the unit).

5614-62-R: District 50, United Mine Workers of America (Applicant) v. Drup Trading Company Limited (Respondent).

Unit: "all employees of the respondent at Ottawa, save and except supervisors, persons above the rank of supervisor, sale staff and persons regularly employed for not more than 24 hours per week."
(26 employees in the unit).

5615-62-R: United Brotherhood of Carpenters and Joiners of America Local Union 2679, affiliated with The Carpenters District Council of Toronto and Vicinity (Applicant) v. Daniels Construction Co. Ltd. (Respondent).

Unit: "all employees of the respondent at its plant in the Town of Mimico, save and except foremen, persons above the rank of foreman, office and sales staff."
(7 employees in the unit).

5624-62-R: United Brotherhood of Carpenters and Joiners of America, Local 1988 (Applicant) v. John Shore Construction Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent in the County of Lanark, save and except non-working foremen and persons above the rank of non-working foreman."
(5 employees in the unit).

The Board endorsed the Record in part as follows:

"The remarks made in the Welcon Limited Case, O.L.R.B. Monthly Report, December, 1962, with respect to (1) the geographical jurisdiction of the applicant and (2) the "area" pattern for collective bargaining apply, in general, to the present case.

However, having regard to the collective agreements filed by the applicant and to the fact that the present application is with respect to more than one location, the Board further finds that all carpenters and carpenters' apprentices in the employ of the respondent in the County of Lanark, save and except non-working foremen and persons above the rank of non-working foreman, constitute a unit of employees of the respondent appropriate for collective bargaining."

5641-62-R: International Hod Carriers Building and Common Labourers Union, Local # 247 (Applicant) v. Fraser-Brace Engineering Company, Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent in the Township of Augusta, in the County of Grenville, save and except non-working foremen and persons above the rank of non-working foreman." (23 employees in the unit).

5673-62-R: International Hod Carriers Building and Common Labourers Union, Local # 506 (Applicant) v. Fix Fast Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent within a twenty-five mile radius from the Toronto City Hall, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

5163-62-R: The Canadian Union of Operating Engineers (Applicant) v. Silverwood Dairies Limited (Respondent) v. Local 944, International Union of Operating Engineers (Intervener).

Unit: "all stationary engineers, firemen, apprentices and helpers employed by the respondent in its power house at Sarnia, save and except the chief engineer (unless taking a shift), temporary employees employed during the vacation period and persons regularly employed by the respondent for not more than 24 hours per week." (3 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

Number of names on revised eligibility list		4
Number of ballots cast	4	
Number of ballots marked in favour of applicant	3	
Number of ballots marked in favour of intervener	1	

5296-62-R: United Electrical, Radio & Machine Workers of America (UE) (Applicant) v. Allen-Bradley Canada Limited (Respondent).

Unit: "all employees of the respondent at Galt, save and except Foremen, assistant foremen, persons above the rank of foreman and assistant foreman, office and sales staff, students hired for the school vacation periods and persons regularly employed for 24 hours per week or less." (153 employees in the unit).

Number of names on revised eligibility list		142
Number of ballots cast	140	
Number of segregated ballots (not counted)	2	
Number of ballots marked in favour of applicant	76	
Number of ballots marked as opposed to applicant	62	

Certified Subsequent to Post-Hearing Vote

637-60-R: Food Handlers' Local Union 175, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Elder Packing Company Limited (Respondent) v. Local 419, Warehousemen, Miscellaneous Drivers, Chauffeurs and Helpers, International Brotherhood of Teamsters (Intervener).

Unit: "all employees of the respondent at Streetsville, save and except foremen, persons above the rank of foreman, office staff, sales staff and students employed during the school vacation period." (35 employees in the unit).

Number of names on revised eligibility list		38
Number of ballots cast	38	
Number of ballots spoiled	1	
Number of ballots marked in favour of applicant	20	
Number of ballots marked as opposed to applicant	17	

5071-62-R: Shopmen's Local Union #757 of the International Association of Bridge, Structural and Ornamental Ironworkers (Affiliated with the A.F. of L., C.I.O., C.L.C.) (Applicant) v. R.M.P. Industries Limited (Respondent).

Unit: "all employees of the respondent at or working out of Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff." (114 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 527)

Number of names on revised eligibility list		52
Number of ballots cast	52	
Number of ballots spoiled	1	
Number of ballots marked in favour of applicant	31	
Number of ballots marked as opposed to applicant	20	

5224-62-R: International Hod Carriers Building and Common Labourers Union of America, Local #506 (Applicant) v. Pre-Con Murray Ltd. (Respondent) v. International Union of Operating Engineers Local 793 (Intervener) v. Toronto and District of Carpenters and Millmen, of the United Brotherhood of Carpenters and Joiners of America (Intervener).

Unit B: "all employees of the respondent employed in erection work at or out of Brampton and Richvale who are engaged in the Operation of cranes, hoists and similar equipment, save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit).

A certificate will issue to the intervener, the International Union of Operating Engineers Local 793, as bargaining agent for the employees described in bargaining unit B.

Number of names on revised eligibility list		5
Number of ballots cast	5	
Number of ballots marked in favour of applicant	0	
Number of ballots marked in favour of International Union of Operating Engineers Local 793	5	

5227-62-R: United Steelworkers of America (Applicant) v. W.S. Tyler of Canada Limited (Respondent) v. Shopmen's Local Union #734 of The International Association of Bridge, Structural and Ornamental Iron Workers (Intervener).

Unit: "all employees of the respondent at its plant at St. Catharines, save and except foremen, persons above the rank of foreman, office staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (64 employees in the unit).

The Board endorsed the Record as follows:

"The Board notes the agreement of the parties that the bargaining unit does not include persons employed by the respondent engaged in field erection or installation work."

Board Member G. Russell Harvey dissented and said:

"I dissent. In the circumstances of this case I would not have excluded students from the bargaining unit."

Number of names on revised eligibility list		59
Number of ballots cast	59	
Number of ballots marked in favour of applicant	48	
Number of ballots marked in favour of intervener	11	

5251-62-R: United Steelworkers of America (Applicant) v. Universal Sections & Mouldings Limited (Scarborough) (Respondent).

Unit: "all employees of the respondent at Scarborough, save and except foremen, persons above the rank of foreman, office and sales staff and students hired for the school vacation period." (33 employees in the unit).

Number of names on revised eligibility list		31
Number of ballots cast	31	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	19	
Number of ballots marked as opposed to applicant	11	

5336-62-R: International Union of Operating Engineers, Local 796 (Applicant) v. Adelaide-Peter Buildings Limited (Respondent) v. The Canadian Union of Operating Engineers (Intervener).

Unit: "all stationary engineers and persons primarily engaged as their helpers employed by the respondent at the Commodore Building in Toronto." (3 employees in the unit).

Number of names on eligibility list		3
Number of ballots cast	3	
Number of ballots marked in favour of applicant	3	
Number of ballots marked as opposed to applicant	0	

5349-62-R: The Canadian Union of Operating Engineer's (Applicant) v. Fine Chemicals of Canada Limited (Respondent) v. International Union of Operating Engineers Local 796 (Intervener).

Unit: "all stationary engineers employed by the respondent at its plant in Scarborough." (4 employees in the unit).

Number of names on eligibility list	4
Number of ballots cast	4
Number of ballots marked in favour of applicant	0
Number of ballots marked in favour of intervener	4

Applications for Certification Dismissed No Vote Conducted

4037-62-R: Gordon Lake Local (Applicant) v. Nickel Mining & Smelting Corp. (Respondent). (20 employees).

The Board endorsed the Record as follows:

"On May 29, 1962, the International Union of Mine, Mill and Smelter Workers made an application for certification (hereinafter referred to as the "original application") for a bargaining unit of all employees of the respondent "at its Gordon Lake property" with exceptions not here material (File No. 3857-62-R). The terminal date for this application was June 11, 1962, and the hearing in the matter was fixed for June 18, 1962. Form 52, the Return of Posting, was duly received from the respondent on June 8 and certified that the requisite notices to employees (Form 5) had been posted on the premises of the employer on June 4, 1962. On June 18, 1962, after the terminal date fixed for the original application, an applicant, which described itself as the Gordon Lake Local, made the instant application (hereinafter referred to as the "subsequent application") for a bargaining unit consisting of the same persons as those described in the unit proposed by the applicant in the original application. In the circumstances, the Board, pursuant to sub-section 3 of section 77 of The Labour Relations Act, postponed consideration of the subsequent application until a final decision was issued on the original application. On December 12, 1962, the Board certified the International Union of Mine, Mill and Smelter Workers as the bargaining agent for all employees of the respondent at its mining site in the Gordon Lake area, save and except shift bosses, foremen, persons above the rank of shift boss or foreman, laboratory staff, employees in the engineering and geological departments, office staff, security guards and students hired for the school vacation period. Having regard to the provisions of section 77(3)(b) of The Labour Relations Act, and in view of the decision of the Board in the original application, this application by Gordon Lake Local is untimely and is accordingly dismissed."

4264-62-R: International Association of Machinists (Applicant) v. The De Havilland Aircraft of Canada Limited (Respondent) v. Canadian Union of Operating Engineers, Local 101 (Intervener) v. The Canadian Guards Association (Intervener) v. Local 673 of the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW) (Intervener) v. Local 112 of the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-AFL-CIO) (Intervener). (201 employees).

The Board endorsed the Record as follows:

"We have given careful consideration to all the evidence and to the very able and exhaustive arguments of counsel for all the parties. We are constrained to find that the essential facts of this case are substantially indistinguishable from the material facts found by the majority in the Newlands-Harding Yarns Ltd. Case, C.C.H. Canadian Labour Law Reporter, vol. 1, ¶16,229; C.L.S. 76-821. In the result, and for the reasons given by the Board in the Newlands-Harding Yarns Ltd. Case, we find that the employees in the bargaining unit for which the applicant intervener, The Canadian Union of Operating Engineers, Local 101, seeks to be certified as bargaining agent, are bound by the collective agreement made on or about July 27th, 1962, and expressed to be effective for three years from June 23rd, 1962, between The De Havilland Aircraft of Canada Limited and The International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, Local 112.

The application for certification by the intervener, The Canadian Union of Operating Engineers, Local 101, is untimely and must be dismissed."

4435-62-R: International Association of Machinists (Applicant) v. The De Havilland Aircraft of Canada Limited (Respondent) v. Canadian Guards Association (Intervener) v. International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.) through its Local 673 (Intervener) v. The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW-AFL-CIO) through its Local 112 (Intervener). (245 employees).

The Board endorsed the Record as follows:

"The applicant has requested leave of the Board to withdraw its application. Having regard to the Board's well-established practice the application must be dismissed."

4436-62-R: International Association of Machinists (Applicant) v. The De Havilland Aircraft of Canada Limited (Respondent) v. Canadian Guards Association (Intervener) v. International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.) through its Local 673 (Intervener) v. The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW-AFL-CIO), through its Local 112 (Intervener). (2578 employees).

The Board endorsed the Record as follows:

"The applicant has requested leave of the Board to withdraw its application. Having regard to the Board's well-established practice the application must be dismissed."

5253-62-R: Hotel and Restaurant Employee's and Bartenders International Union Local 412 AFL., CIO., CLC., (Applicant) v. Golden Steer Limited (Respondent).

Unit: "all employees of the respondent at Sault Ste. Marie, save and except manager, persons above the rank of manager, hostess and office staff." (19 employees in the unit).

On January 31, 1963 the Board directed that a representational vote be taken of the employees of the respondent in the bargaining unit determined by the Board.

The applicant in a letter dated March 9, 1963 requested leave of the Board to withdraw its application for certification.

The Board endorsed the Record in part as follows:

"Having regard to the decision of the Board in the Mathias Ouelette Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1955-1959 ¶16026, the Board directs that this application be dismissed and if the applicant makes a new application within six months from the date hereof, the applicant will be required to show special circumstances exist which would warrant a new application being entertained at that time."

5375-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. W.D. Laflamme Limited (Respondent). (63 employees).

5497-62-R: International Union of Operating Engineers, Local 944 (Applicant) v. Concrete Pipe Limited (Respondent). (3 employees).

The Board endorsed the Record as follows:

"On February 7th, 1963, International Hod Carriers Building and Common Labourers Union of America, Local 1059 made an application for certification (hereinafter referred to as the "original application") for a bargaining unit of all employees of the respondent at London with exceptions not here material (File 5417-62-R). The terminal date fixed for this application was February 19th, 1963, and the hearing in the matter was fixed for February 26th, 1963. On February 25th, 1963, and after the terminal date fixed in the original application, International Union of Operating Engineers, Local 944 made the instant application (hereinafter referred to as the "subsequent application") for a bargaining unit of "all stationary engineers operating boilers at the plant of the respondent" at London. In the circumstances the Board, pursuant to subsection (3) of section 77 of The Labour Relations Act, postponed consideration of the subsequent application until a final decision was issued on the original application.

On February 28th, 1963, the Board certified International Hod Carriers Building and Common Labourers Union of America, Local 1059 as the bargaining agent of "all employees of the respondent at London, save and except foremen, persons above the rank of foreman, salesmen and office staff". Having regard to the provisions of section 77(3) (b) of The Labour Relations Act, and in view of the decision of the Board in the original application, this application by International Union of Operating Engineers, Local 944 is untimely and is accordingly dismissed."

5516 62-R: Bricklayers, Masons and Plasterers, International Union of America, Local 10 (Applicant) v. Eastern Ontario Tile and Terrazzo Company Limited (Respondent).

Unit: "all tile, terrazzo and cement workers and their apprentices in the employ of the respondent in the City of Kingston and in the Counties of Frontenac and Lennox-Addington but excluding the Township of Richmond, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

The Board endorsed the Record in part as follows:

"The evidence of membership filed by the applicant consisted of one dues book and three receipts. The receipts are countersigned by the payor. There are no application cards and there is no other evidence of membership or desire for membership filed by the applicant for the three persons who countersigned the receipts. The evidence of membership respecting these three persons does not meet the Board's standards in these matters. See Mathews Construction Company Limited C.C.H. Transfer Binder, (1955-59), ¶16017, C.L.S. 76-479.

While the dues book constitutes satisfactory evidence of membership, the evidence relates only to one person. The applicant states that there are four persons in the bargaining unit. It is obvious that the satisfactory evidence of membership is not sufficient to enable the Board to certify outright or even order a vote.

In these circumstances, therefore, the application must be dismissed."

5533-62-R: International Association of Bridge, Structural and Ornamental Iron Workers - Local Union # 735. 402 Barton Street East, Hamilton, Ontario (Applicant) v. Page Manufacturing Company Limited 40 Page Street, St. Catharines, Ontario (Respondent). (3 employees).

The Board endorsed the Record as follows:

"The documentary evidence of membership submitted by the applicant consisted of three dues books which were not signed by the employees in respect of whom they were submitted. Subsection 1 of section 50 of the Board's Rules of Procedure provides in part that evidence of membership shall not be accepted by the Board unless the evidence is signed by the employee. See the Nick Babij case, file number 740-60-R, O.L.R.B. Monthly Report, June, 1961, p. 75, and the Moose Head House (Hamilton) case, file number 2122-61-R, O.L.R.B. Monthly Report, November, 1961, p. 278. In view of these circumstances, the Board cannot give any weight to the documentary evidence filed in support of this application."

5543-62-R: Local #303 International Brotherhood of Electrical Workers C L C (Applicant Electro - Vox Intercom Inc. (Respondent). (2 employees).

5561-62-R: International Union of Operating Engineers, Local 796 (Applicant) v. Sudbury Arena (Respondent). (4 employees).

The Board endorsed the Record as follows:

"No one appeared for either the applicant or respondent.

The applicant having failed to appear at the hearing of this matter, this application is dismissed."

5603-62-R: International Hod Carriers Building and Common Labourers Union, Local # 506 (Applicant) v. Fix Fast Limited (Respondent). (3 employees).

The Board endorsed the Record as follows:

"The applicant failed to file with the Board Form 60, Declaration Concerning Membership Documents, Construction Industry, within the time fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure. In accordance with its usual practice, the application is therefore dismissed."

Certification Dismissed subsequent to Pre-Hearing Vote

5299-62-R: Local #28, International Brotherhood of Bookbinders (Applicant) v. McCorquodale & Blades (Printers) Ltd. (Respondent).

Voting constituency: "all journeymen and journeywomen, bookbinders and their apprentices employed by the respondent at Toronto, save and except foremen, foreladies, persons above the ranks of foreman or forelady and office and sales staff." (26 employees in the constituency)

Number of names on revised eligibility list		23
Number of ballots cast	23	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	11	
Number of ballots marked as opposed to applicant	11	

5501-62-R: Canadian Textile Council (Applicant) v. Harding Carpets Limited (Respondent) v. Textile Workers Union of America (Intervener).

Voting constituency: "all employees of the respondent at its Guelph plants, save and except foremen, assistant foremen, persons above the ranks of foreman and assistant foreman, office staff and persons covered by a subsisting collective agreement between the respondent and the Canadian Union of Operating Engineers." (138 employees in the constituency)

Number of names on revised eligibility list		139
Number of ballots cast	137	
Number of spoiled ballots	1	
Number of segregated ballots (not counted)	1	
Number of ballots marked in favour of applicant	52	
Number of ballots marked in favour of intervener	83	

Certification Dismissed subsequent to Post-Hearing Vote

5152-62-R: International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Applicant) v. Thompson Products Limited (Respondent) v. The Canadian Union of Operating Engineers (Intervener) v. Thompson Products Employees' Association (Intervener).

Unit: "all employees of the respondent at its St. Catharines and Grantham Township plants, save and except shift foremen, foremen, persons above the rank of foreman, nurses, clerical and office employees and plant protection personnel."
(588 employees in the unit).

On February 13, 1963 the Majority of the Board directed that a representation vote be taken among the employees of the respondent in the following voting constituency:

"all employees of the respondent at its St. Catharines and Grantham Township plants, save and except shift foremen, foremen, persons above the rank of foreman, nurses, clerical and office employees and plant protection personnel."

Board Member M.C. Hay dissented on the grounds that in his opinion the application was untimely. He would not have directed a representation vote and would have dismissed the application.

Number of names on revised eligibility list		632
Number of ballots cast	632	
Number of ballots segregated (not counted)	3	
Number of ballots marked in favour of applicant	206	
Number of ballots marked in favour of Thompson Products Employees' Association	423	

5250-62-R: United Steelworkers of America (Applicant) v. Inland Building Products Limited (Respondent).

Unit: "all employees of the respondent at its plant in Scarborough, save and except foremen, persons above the rank of foreman and office staff." (4 employees in the unit).

Number of names on revised eligibility list	4
Number of ballots cast	4
Number of ballots marked in favour of applicant	2
Number of ballots marked as opposed to applicant	2

APPLICATIONS FOR CERTIFICATION WITHDRAWN DURING MARCH 1963

5379-62-R: Automatic Vending Employees Union (Applicant) v. National Automatic Vending Company Limited (Toronto) (Respondent). (51 employees).

5609-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Jno. Maguire Contracting Company Limited (Respondent). (34 employees).

5642-62-R: Building Service Employees' International Union, Local 204, A.F.L., C.I.O., C.L.C. (Applicant) v. Richardson Extermination Ltd. (Respondent). (3 employees).

5663-62-R: The Canadian Union of Operating Engineers (Applicant) v. Hanse of Canada Ltd. (Respondent). (4 employees).

APPLICATIONS FOR TERMINATION DISPOSED OF DURING MARCH 1963

3938-62-R: Paul Brafield (Applicant) v. International Union of Electrical Radio and Machine Workers, A.F. of L.-C.I.O.-C.L.C. and its Local 543 (Respondent) v. Remington Rand Limited (Intervener). (DISMISSED). (95 employees).

(Re: Remington Rand Limited,
Toronto, Ontario)

(SEE INDEXED ENDORSEMENT PAGE 535)

5116-62-R: Reginald Hall and Thomas C. Johnston on their own behalf and on behalf of the Employees of Trent Metals Limited, of Peterborough, Ontario (Applicant) v. Sheet Metal Workers' International Association, Local Union 392 (Respondent). (GRANTED). (3 employees).

(Re: Trent Metals Limited,
Peterborough, Ontario)

Number of names on revised eligibility list		2
Number of ballots cast	2	
Number of ballots marked in favour of respondent	0	
Number of ballots marked as opposed to respondent	2	

5174-62-R: Grace Thompson (Applicant) v. Bakery and Confectionary Workers' International Union of America Local 457 (Respondent) v. Laing & Sons Limited (Intervener). (GRANTED). (22 employees).

(Re: Laing & Sons Limited,
Hamilton, Ontario)

Number of names on revised eligibility list		19
Number of ballots cast	19	
Number of ballots marked in favour of respondent	3	
Number of ballots marked as opposed to respondent	16	

5274-62-R: D. Lloyd Redstone (Applicant) v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 419, Warehousemen and Miscellaneous Drivers (Respondent). (GRANTED). (46 employees).

(Re: C.W. Henderson Cartage Limited,
Metropolitan Toronto, Ontario)

Number of names on revised eligibility list		43
Number of ballots cast	43	
Number of ballots marked in favour of respondent	18	
Number of ballots marked as opposed to respondent	25	

5308-62-R: Maurice J. Brohm (Applicant) v. General Truck Drivers' Union, Local 938, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A.F. of L. (Respondent) (GRANTED). (38 employees).

(Re: Buckley Cartage Limited,
Toronto, Ontario)

Number of names on revised eligibility list		29
Number of ballots cast	28	
Number of ballots marked in favour of respondent	9	

Number of ballots marked as
opposed to respondent 19

5532-60-R: Peter Lynch (Applicant) v. The Hotels, Clubs, Restaurants Taverns Employees Union Local 261, Chartered by the Hotel Restaurant Employees and Bartenders International Union (Respondent). (DISMISSED). (68 employees).

(Re: Beacon Realty Co. Limited operating
Beacon Arms Hotel,
Ottawa, Ontario)

The Board endorsed the Record as follows:

"The applicant having advised the Board by letter that it would "not be proceeding with this application in view of the fact that less than fifty per cent of the employees in the bargaining unit have signified in writing that they no longer wish to be represented by the respondent" and the applicant having failed to appear, this application is accordingly dismissed."

5629-62-R: Central House Ltd. 458 Queen St. East. Sault Ste. Marie, Ontario (Applicant) v. The Hotel, Restaurant Employees & Bartenders Int. Union. Local 412, Sault Ste. Marie, Ontario (Respondent). (WITHDRAWN). (5 employees).

(Re: Central House Ltd.,
Sault Ste. Marie, Ontario)

APPLICATIONS FOR DECLARATION CONCERNING SUCCESSOR TRADE UNION
DISPOSED OF DURING MARCH 1963

2675-62-R: International Chemical Workers Union A.F. of L. C.I.O. C.L.C. (Applicant) v. Advance Glass and Mirror Limited (Respondent) v. Canadian Glassworkers Union (Predecessor). (WITHDRAWN).

2676-62-R: International Chemical Workers Union A.F. of L. C.I.O. C.L.C. (Applicant) v. Pilkington Brothers (Canada) Limited (Respondent) v. Canadian Glassworkers Union (Predecessor). (WITHDRAWN).

2677-62-R: International Chemical Workers Union A.F. of L. C.I.O. C.L.C. (Applicant) v. Queen City Glass Company Limited (Respondent) v. Canadian Glassworkers Union (Predecessor). (WITHDRAWN).

2678-62-R: International Chemical Workers Union A.F. of L. C.I.O. C.L.C. (Applicant) v. Consolidated Glass Industries Limited (Respondent) v. Canadian Glassworkers Union (Predecessor). (WITHDRAWN).

2680-62-R: International Chemical Workers Union A.F. of L. C.I.O. C.L.C. (Applicant) v. Service Glass and Mirror Limited (Respondent) v. Canadian Glassworkers Union (Predecessor). (WITHDRAWN).

4348-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. Murray Printing & Gravure Limited (Respondent) v. International Brotherhood of Bookbinders Local Union No. 186 (Predecessor Trade Union). (GRANTED).

&

4349-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. The Copp Clark Publishing Co. Limited (Respondent) v. International Brotherhood of Bookbinders Local 128 (Predecessor Trade Union). (GRANTED).

&

4350-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. Offset Print & Litho Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

&

4351-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. W.J. Gage Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

&

4352-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. The Brown Brothers Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

&

4353-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. Rolph, Clark, Stone, Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

(SEE INDEXED ENDORSEMENT PAGE 544)

5387-62-R: The International Association of Machinists (Applicant) v. Turnbull Elevator of Canada Limited (Respondent). v. Turnbull Employees Union (Predecessor). (GRANTED).

The Board endorsed the Record as follows:

"The Board finds that the applicant is, by reason of a merger, amalgamation or transfer of jurisdiction, the successor to Turnbull Employees' Union which was the bargaining agent for a unit of employees of the respondent."

REQUEST UNDER SECTION 63 OF THE ACT

4166-62-M: Jerry Regan (Applicant) v. International Union of Operating Engineers Local 796 (Respondent). (TERMINATED).

The Board endorsed the Record as follows:

"On the evidence before us, the end of the respondent union's fiscal year is the 30th of June. At the time the applicant requested a financial statement of the respondent union's affairs, he was entitled to a statement to the end of June, 1961. That statement having been furnished to him by the respondent union, the respondent union has satisfied the request upon which this complaint is based. This proceeding is accordingly terminated."

APPLICATION FOR DECLARATION THAT STRIKE UNLAWFUL DISPOSED OF
OF DURING MARCH 1963

5183-62-U: National Refractories Ltd. (Applicant) v. United Electrical, Radio and Machine Workers of America (U.E.) (Respondent). (DISMISSED).

The Board endorsed the Record as follows:

"For reasons given in writing this application is dismissed."

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED OF
OF DURING MARCH 1963

5210-62-U: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. National Refractories Ltd. (Respondent). (DISMISSED).

(SEE INDEXED ENDORSEMENT PAGE 548)

5569-62-U: Operative Plasterers' and Cement Masons International Association of the United States and Canada Local Union no. 124, Ottawa (Applicant) v. Pirini Limited, 150 Kent Street, Ottawa Ontario (Respondent). (WITHDRAWN).

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING MARCH
1963

4426-62-U: International Association of Machinists (Applicant) v. The De Havilland Aircraft of Canada Limited (Respondent) (DISMISSED).

The Board endorsed the Record as follows:

"The applicant has requested leave of the Board to withdraw its application. Having regard to the Board's well-established practice the application must be dismissed."

4427-62-U: International Association of Machinists (Applicant) v. Local 573, International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) and Local 112, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-AFL-CIO) (Respondents). (DISMISSED).

The Board endorsed the Record as follows:

"The applicant has requested leave of the Board to withdraw its application. Having regard to the Board's well-established practice the application must be dismissed."

5327-62-U: The Hotels, Clubs, Restaurants, Taverns Employees' Union Local 261, Chartered by The Hotel Restaurant Employees and Bartenders International Union (Applicant) v. Beacon Arms Hotel, owned and operated by Beacon Realty Co. Limited (Respondent). (WITHDRAWN).

The Board endorsed the Record as follows:

"On consent of the parties this application is withdrawn."

5371-62-U: Anton-Franz Gutsfeld (Applicant) v. International Harvester Company (Hamilton Works) Sherman Av. N. Hamilton, Ontario, and Local Union 2868 of United Steelworkers Union of America (Respondents).

(SEE INDEXED ENDORSEMENT PAGE 548)

5487-62-U: The Hotels, Clubs, Restaurants, Taverns Employees' Union Local 261, Chartered by The Hotel Restaurant Employees and Bartenders International Union (Applicant) v. Beacon Arms Hotel, owned and operated by Beacon Realty Co. Limited. (Respondent). (WITHDRAWN).

The Board endorsed the Record as follows:

"On consent of the parties this application is withdrawn."

5511-62-U: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Dashwood Planing Mills Ltd. (Respondent). (WITHDRAWN).

5568-62-U: Operative Plasterers and Cement Masons International Association of the United States and Canada Local Union no. 124, Ottawa, Ontario (Applicant) v. Firini Limited (Respondent). (WITHDRAWN).

5592-62-U: Building Service Employees' International Union, Local 204, A.F. of L-C.I.O. C.L.C. (Applicant) v. John Noble Home (Respondent). (WITHDRAWN).

APPLICATIONS UNDER SECTION 65 DISPOSED OF DURING MARCH 1963

4892-62-U: Frank Kuntz (Complainant) v. Pitt Street Hotel Ltd. (King George Hotel) (Respondent) v. Hotel, Motel and Restaurant Employees Union, Local No. 899 (Party added by the Board).

The Board endorsed the Record as follows:

"For Reasons given in writing this complaint is dismissed."

5082-62-U: Boot and Shoe Workers Union affiliated with the American Federation of Labour and the Congress of Industrial Organizations (Complainant) v. Emille Shoe Limited (Respondent).

5187-62-U: Anton Gutsfeld (Complainant) v. International Harvester Company (Harvester Works) and 2868--Local Steelworker Union of United Steelworkers Union of America (Respondents).

(SEE INDEXED ENDORSEMENT PAGE 549)

5275-62-U: Hotel and Restaurant Employee's and Bartenders' International Union Local 412 AFL., CIO., CLC., (Complainant) v. Golden Steer Limited (Respondent).

5310-62-U: General Truck Drivers' Union, Local 879, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers (Complainant) v. Phillips Transport Limited (Respondent).

5323-62-U: Retail Clerks International Association (Complainant) v. Briarcrest Supermarkets Limited (Respondent).

The Board endorsed the Record as follows:

"On the basis of all the evidence before it, the Board is not satisfied that John Richardson was discharged by the respondent for union activity in violation of section 48 or section 50 of The Labour Relations Act.

In view of the finding of the Board in paragraph 2, it is not necessary for us to consider the status of John Richardson or the jurisdiction of the Board.

The complaint, accordingly, is dismissed."

5325-62-U: Textile Workers Union of America (Complainant) v. Kayser-Roth of Canada Limited (Respondent).

5342-62-U: Loblaw Workers' Council (Complainant) v. Discount Foods Limited (Respondent).

5404-62-U: International Woodworkers of America (Complainant) v. Quality Plywood & Veneer Company Limited (Respondent).

5418-62-U: Food Handlers' Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Complainant) v. Busy B Discount Foods Limited (Respondent).

5513-62-U: Teamsters Union Local 419 (Complainant) v. Collard Bros. Ltd. (Respondent).

5514-62-U: Teamsters Union Local 419 (Complainant) v. Howell Forwarding Company Ltd. (Respondent).

5529-62-U: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Complainant) v. London Meat Market (Respondent).

5640-62-U: David W. Hanna, Orderly (Complainant) v. "The Pines" The Muskoka District Home for the Aged John Biddle Superintendent (Respondent).

CERTIFICATION INDEXED ENDORSEMENTS

5071-62-R: Shopmen's Local Union #757 of the International Association of Bridge, Structural and Ornamental Ironworkers (Affiliated with the A.F. of L., C.I.O., C.L.C.) (Applicant) v. R.M.P. Industries Limited (Respondent). (GRANTED MARCH 1963).

The Board endorsed the Record as follows:

"The present applicant, Local 757, of the International Association of Bridge, Structural and Ornamental Ironworkers is (as is well-known to the Board from previous cases before it, including the Art Wire and Iron Company Limited Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1954-59, ¶17,080) usually referred to as an inside shopmen's local representing persons employed in fabrication work done in shops. Local 721 of the same International on the other hand is usually

known as an outside erection local representing persons engaged in outside erection and installation work.

In an earlier application (Board File No. 1711-61-R) this applicant, Local 757, applied to be certified as bargaining agent for a unit consisting of all employees of the respondent (then known as Prime Windows of Canada Limited), save and except employees engaged in field erection and installation work and others not here material. In its decision in that case of January 4th, 1962, the Board found that the only appropriate unit in the circumstances was an industrial unit including both the employees engaged in inside fabrication work and outside field erection and installation work. On this basis and because the applicant's Constitution would not permit it to accept into membership persons engaged in field erection and installation work, the Board, following the Gaymer and Oultram Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1949-54, ¶17,073, and The Ottawa Citizen Case, ibid, ¶17,076, held in its decision of July 24th, 1962, in the same case, that it was precluded from certifying the applicant and accordingly, on that ground, dismissed its application.

Later in August, 1962, Local 721 applied (Board File No. 4411-62-R) to be certified as bargaining agent for the unit of the respondent's employees which in the previous application by Local 757, the Board had found to be appropriate. The Board found that as Local 721 was prohibited by its Constitution from admitting to membership persons engaged in fabrication work, it was also precluded from certifying this Local as bargaining agent for this unit. Accordingly, on that ground the Board also dismissed the application by Local 721.

The applicant, Local 757, in the instant application now claims that for purposes of representing employees of this particular respondent, R.M.P. Industries Limited, its jurisdiction has been extended to cover all employees of the respondent in the unit found by this Board to be appropriate and that all employees in this unit are now eligible for membership in Local 757. In support of these contentions the applicant relies on the following documentary evidence:-

- (a) The Constitution of the International Association of Bridge, Structural and Ornamental Iron Workers.
- (b) A written agreement between Local 721 and Local 757 to the effect that these Locals agree that the "Shopmen's Local Union 757 is the appropriate labour organization to represent for the

purpose of collective bargaining the following unit of employees of R.M.P. Industries Limited 'All employees of the Company employed at or working out of Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff'".

- (c) A letter over the signature of John H. Lyons Jr., General President of The International Association of Bridge, Structural and Ornamental Iron Workers. The text of this letter is as follows:-

Be advised the General Executive Board of the International Association of Bridge, Structural and Ornamental Iron Workers has carefully reviewed and considered the Decision of the Ontario Labour Relations Board dated July 26, 1962 in the matter of Shopmen's Local Union No. 757 of the International Association of Bridge, Structural and Ornamental Iron Workers and R M P INDUSTRIES, LTD. - also the Decision of the aforementioned Board dated November 9, 1962 in the matter of "International Association of Bridge, Structural and Ornamental Iron Workers, Local 721, and R M P INDUSTRIES, LTD." In addition to the aforementioned, the General Executive Board has carefully reviewed and considered all other developments which have heretofore arisen in connection with the aforementioned, including the agreement heretofore entered into between said Shopmen's Local Union No. 757 and said Iron Workers Local Union No. 721 which provides that said Shopmen's Local Union No. 757 is the appropriate labor organization to represent an "all employee unit" comprised of employees of the R M P INDUSTRIES, LTD.

Be further advised that the General Executive Board of this International Association, in accordance with the authority vested in it pursuant to the provisions contained in Article XII, Section 4 - Article XX, Section 10 - and Article XX, Section 29 of the Constitution of said International, has unanimously taken the following action.

- (1) The agreement heretofore entered into by and between Shopmen's Local Union No. 757 and Iron Workers Local Union No. 721, both of the International Association of Bridge, Structural and Ornamental Iron Workers, which provides that said Shopmen's Local Union No. 757 shall be the appropriate labor organization to represent, for the purpose of collective bargaining, an "all employee unit" consisting of employees of R M P INDUSTRIES, LTD., Toronto, Ontario, shall be and is hereby approved.
- (2) Shopmen's Local Union No. 757 of the International Association of Bridge, Structural and Ornamental Iron Workers shall be and is hereby authorized, delegated and empowered with the sole and exclusive right to represent, for the purpose of collective bargaining a unit of employees of R M P INDUSTRIES, LTD., Toronto, Ontario, namely: "All employees of the Company employed at or working out of metropolitan Toronto save and except Foremen, persons above the rank of Foremen, and Office Staff".
- (3) Shopmen's Local Union No. 757 of the International Association of Bridge, Structural and Ornamental Iron Workers is hereby authorized and empowered with the authority to obtain, from the Ontario Labour Relations Board, a Certification designating said Local Union as the sole and exclusive bargaining representative of a unit of employees of R M P INDUSTRIES, LTD. as described in Item (2) above.

The aforementioned action of the General Executive Board has been taken in view of the fact that the employees of R M P INDUSTRIES, LTD. desire to be represented, for the purpose of collective bargaining, by an Affiliated Local Union of this Association and for the further reason that this International Association, as such, does not file with any governmental agency Petitions or Applications for Certification as the bargaining representative of employees of an Employer, as such authority is delegated solely to its Affiliated Local Unions.

While the Constitution of the applicant has not been amended since its previous application (Board File No. 1711-61-R) counsel for the applicant argues that the agreement between Locals 757 and 721 has been duly ratified and affirmed by the General Executive Board under authority vested in it by the Constitution. He argues that while there is no

specific provision in the Constitution which expressly empowers the Executive Board to affirm and implement such an agreement as is made here between Locals 757 and 721, this power and authority must by necessary implication and intendment, be found to exist in a general residuary jurisdiction vested in the General Executive Board under the Constitution. He argues that on a fair and liberal construction of the Constitution as a whole and particularly section 4 of Article XII thereof, the Board must find that the agreement and its ratification by the General Executive Board, are effectual to confer jurisdiction on Local 757 to represent and enroll as members all employees of R. M. P. Industries who are in the bargaining unit.

Counsel for the respondent, on the other hand, argues that the Constitution by section 2 of Article XXVII clearly confines the jurisdiction of Local 757 and membership therein to employees engaged in fabrication work done in shops. This he contends is a mandatory provision which can only be altered through the machinery of the amending procedures of the Constitution. He denies that there is any power residual or otherwise vested in the General Executive Board to affirm or implement the agreement in question. In the result, he contends that the application should be dismissed on the ground that the applicant is still barred by its Constitution from enrolling as members and representing all persons who the Board has found to be in the bargaining unit.

It appears that the applicant has filed evidence of membership for at least one person whose occupational classification would indicate that he does outside erection and installation work.

The Board stated in the John E. Riddell Case, C.C.H. Canadian Labour Law Reporter, 1955-59 Transfer Binder ¶16,085 at p. 12,150, that

In construing constitutions of trade unions, it must be the understanding of a layman rather than a technical interpretation of the words that must govern. What we have to arrive at in this case is the intention of the responsible bodies within the international union as to the meaning of the membership article of the constitution.

Whether or not the applicant's Constitution authorizes the General Executive Board to extend the jurisdiction of Local 757 to permit it to represent and admit to membership all the employees in the bargaining unit raises nice questions of interpretation on which, in our view, there can be reasonable differences of legal opinion. If we construe the relevant language of the Constitution from the point of view of the understanding of a reasonable layman, the canon of construction applied by the Board in the John E. Riddell Case, there seems little doubt but that the relevant language of the Constitution is reasonably capable of bearing the construction which is in fact placed upon it by the present applicant and by the governing executive of the International Association of Bridge, Structural and Ornamental Ironworkers. At least one person who does work other than what would ordinarily come within the jurisdiction of Local 757 has in fact been admitted to membership in that Local. The applicant states and this is supported by evidence that membership is held open to all persons in the classification described by the bargaining unit and that on the applicant's interpretation of the constitutional provisions, these persons are in fact eligible for membership. There is no evidence that any of the persons affected by the constitutional provisions relating to eligibility for membership have been denied membership or have complained in any way about these provisions.

In all the circumstances of this case including the fact that the applicant has, in our view, demonstrated by deeds as well as words that it has and will accept into membership, persons of the occupational classification in question, we must find on the evidence before us that the applicant is capable of representing all employees in the bargaining unit."

5499-62-R: International Hod Carriers Building and Common Labourers Union, Local # 493 (Applicant) v. The Foundation Company of Canada Limited (Respondent). (GRANTED MARCH 1963)

The Board endorsed the Record in part as follows:

"The respondent requested a hearing by the Board and in support of its request stated:

1. It is incumbent upon the applicant that they prove they have 50% representation.

2. We recommend that the area of certification be restricted to the area of Sault Ste. Marie, Ontario (see Para. 8).
3. The area covered by the application includes a large number of established labour markets and is larger in area than the total area of Southern Ontario.

As to the first reason stated by the respondent in support of its request the Board is unable to see how a hearing would, in this case, in any way assist the Board in determining the membership position of the applicant. The respondent does not make any allegations of impropriety with respect to the evidence of membership filed by the applicant. The employees of the respondent have not filed any statement of desire in opposition to the application pursuant to section 74 of the Board's Rules of Procedure. No intervention has been filed pursuant to Rule 72. There is on file with the Board a duly completed Form 60. The respondent has filed schedules listing employees in the bargaining unit and these are accompanied by specimen signatures. The applicant has filed its evidence of membership. In these circumstances even if a hearing were held all that would take place with respect to the membership position of the applicant would be the announcement of the "count" i.e. the number of cards filed by the applicant and the number of persons on the schedules filed by the respondent. The Board does not reveal who are union members. It makes its findings with respect to the membership position of the applicant from the membership evidence filed by the applicant and the list of employees and specimen signatures filed by the respondent. (See section 83 of The Labour Relations Act).. If no hearing is held in a case the count is announced in the Board's endorsement on the record. If the Board has erred in some material way a party has the right to ask the Board to reconsider its decision under section 79(1) of The Labour Relations Act.

The second and third grounds advanced by the respondent in support of its request for a hearing relate to the description of the bargaining unit. Since, for the reasons set out below, the Board's finding in this matter does not differ materially from the position taken by the respondent, there does not appear to be any reason for holding a hearing on these grounds.

The Board is therefore satisfied that it is now in a position to deal with the application at this time and without holding a hearing and that in so doing the rights of the parties will not thereby be prejudiced. The Board notes that by virtue of section 75(9a) of The Labour Relations Act it is not required to hold a hearing in the present case.

In its application, the applicant trade union proposes that any certificate issued by the Board should cover a geographic area consisting of five counties or districts, namely the Districts of Cochrane, Timiskaming, Nipissing, Algoma and Sudbury. The only collective agreement filed in support of this application is for an area of thirty-five miles from the Federal Building in Sudbury. The project in question in this application is in Sault Ste. Marie. The applicant has never been certified for the area which it claims is an appropriate area and there are no collective agreements on file with the Board indicating that the applicant has bargaining rights for the employees of any employer covering the area which it seeks. Although the present applicant has apparently been assigned the five counties or districts in its territorial jurisdiction, it has not established that it has bargaining rights for the employees of any employer in this area. While the Board has indicated that it may have to review its present policies particularly with respect to geographic area if labour and management are unable to come up with a mutually agreeable solution, in this case we do not intend to depart from the policies we have been applying in recent cases such as Andeen Construction Limited, file number 4924-62-R, O.L.R.B. Monthly Report, November, 1962, p. 295, and Ball Brothers Limited, file number 5068-62-R, O.L.R.B. Monthly Report, January, 1963.

5548-62-R: United Brotherhood of Carpenters and Joiners of America Local Union 93 (Applicant) v. Fix-Fast Ltd. (Respondent). (GRANTED MARCH 1963).

On March 12, 1963 the Board endorsed the Record as follows:

"The applicant has failed to file any evidence of membership within the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

The application is therefore dismissed."

On March 15, 1963 the Board further endorsed the Record in part as follows:

"The applicant has requested the Board to reconsider its decision dated March 12th, 1963 dismissing the application on the grounds that the evidence of membership filed by the applicant was not filed within the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure. In support of its request, the applicant has filed a registration slip which clearly shows that the envelope containing the evidence of membership was mailed registered, in Ottawa, to the Board on March 11th, 1963, the terminal date for the application. Normally, this letter would have been received by the Board on Tuesday, March 12th, 1963. There was, in fact, no evidence of membership received by the Board by registered mail on March 12th, 1963. Accordingly, the Board dismissed the application on that date.

In view of these circumstances and having regard to section 52(1)(b) and to section 50 (1) (b) of the Board's Rules of Procedure, it is clear that the evidence of membership was filed with the Board within the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure."

TERMINATION INDEXED ENDORSEMENT

3938-62-R: Paul Brafield (Applicant) v. International Union of Electrical Radio and Machine Workers, A.F. of L.-C.I.O.-C.L.C. and its Local 543 (Respondent) v. Remington Rand Limited (Intervener). (DISMISSED). (95 employees).

(Re: Remington Rand Limited,
Toronto, Ontario).

The Board endorsed the Record as follows:

"In ascertaining whether an applicant for termination of bargaining rights has satisfied the requirements of section 43 (2) and (3) of The Labour Relations Act, the Board's practice requires and it notifies the applicant in advance of the hearing, as it did in this case, that any representative who appears at the hearing will be required to testify, or produce a witness or witnesses who will be able to testify from his or their personal knowledge and observation as to (a) the circumstances concerning the origination of the material filed, and (b) the manner in which each of the signatures to the documents filed in support of the application was obtained.

What the Board is seeking, among other things, is satisfactory and reasonable assurance from persons with first-hand knowledge that the application has not been sponsored or initiated by management, and that the desires of the employees as reflected in the written document were voluntarily recorded and that management has not improperly influenced them in any way. (See The Remington Rand Limited Case, C.C.H. Canadian Labour Law Reporter, 1955-59 Transfer Binder, ¶16,055, C.L.S. 76-530; The Harry Hayley & Sons Limited Case, ibid ¶16,106, C.L.S. 76-595; The Island Lake Lumber Company Limited Case, Monthly Report, Ontario Labour Relations Board, September, 1960, p. 227, Board File No. 18-616-59; The Wesmak Lumber Company Limited Case, Monthly Report, Ontario Labour Relations Board, September 1960, p. 227, Board File No. 18,818-59; The Pyrotenax of Canada Ltd. Case, C.C.H. Canadian Labour Law Reporter, vol. 1, ¶16,170, C.L.S. 76-685; The Killarney Hotel (Windsor) Limited Case, Monthly Report, Ontario Labour Relations Board, January, 1962, p. 361, Board File No. 479-60-R.)

While the name of the person who originated and prepared the documents was given to the Board, such person was not called to give evidence. Further, the evidence relating to the circulation and manner in which the signatures were obtained to the documents in question was in many material respects of a most unsatisfactory nature. In these circumstances, and having regard to the practice of the Board as indicated above, we are unable to find that the evidence satisfactorily accounts for and explains the origination and manner in which the signatures were obtained to the documents to enable us to say that the requirements of section 43 (2) and (3) have been met.

The application is dismissed."

Board Member H.F. Irwin dissented and said:

"I dissent.

This is an application under section 43, subsection (2) of The Labour Relations Act by Paul Brafield, an employee of Remington Rand Limited, for a declaration that the respondent trade union no longer represents the employees in the bargaining unit defined in the collective agreement between the respondent and the intervener. It is admitted that the application is timely under the provisions of the subsection.

Section 43, subsection (3) of the Act is a statutory direction to the Board as to how it shall proceed in processing the application. It reads as follows:-

- (3) Upon an application under subsection 1 or 2, the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and whether not less than 50 per cent of the employees in the bargaining unit have voluntarily signified in writing at such time as is determined under clause j of subsection 2 of section 77 that they no longer wish to be represented by the trade union, and, if not less than 50 per cent have so signified, the Board shall, by a representation vote, satisfy itself that a majority of the employees desire that the right of the trade union to bargain on their behalf be terminated.

It is clear, then, that the Board is directed to take 3 simple steps:-

- (i) Ascertain the number of employees in the bargaining unit.
- (ii) Ascertain whether not less than 50 per cent of these employees voluntarily signified in writing that they no longer wish to be represented by the trade union.
- (iii) Direct a representation vote, if not less than 50 per cent of the employees have so signified.

There were 98 employees in the bargaining unit at the time the application was made. Not less than 50 per cent of these employees signified in writing within the time determined by the Board under clause j of subsection 2 of section 77 that they no longer wished to be represented by the respondent trade union by signing, as stated therein, of their own free will, one or more documents, each worded as follows:-

Petition for Decertification

We the undersigned do willingly agree for application of decertification of the International Union of Electrical Radio and Machine Workers AFL-CIO-CLC - and its Local 543 as bargaining agents. We will also agree

for a vote to be held at the discretion of the Labour Relations Board. We sign this on our own time and of our own free will.

(Emphasis added)

The Concise Oxford Dictionary defines the word voluntary as done of one's own free will". This is exactly what these documents state. In the absence of any evidence to the contrary, surely it is mandatory upon the Board to direct a representation vote so as to satisfy itself as to the wishes of the employees.

Employees called by the applicant as witnesses informed the Board of the circumstances surrounding the circulation and the signing of the documents. Between them, they accounted for and witnessed all 50 signatures affixed thereto.

Some of the witnesses for the applicant informed the Board of the name of the employee who gave them the above mentioned documents. It was stated that they had previously discussed amongst themselves the making up of the documents and that it was a group effort. After four hearings and an exhaustive enquiry by the Board, there was no evidence adduced that management assisted or participated in the preparation or in the circulation and signing of the documents.

The majority decision dismisses the application primarily because the employee named as the person who prepared and supplied the documents did not appear in person to relate the circumstances concerning their origination and to testify before the Board that management did not assist him or participate in their preparation.

I cannot find anything in the Act or in the Board's Rules of Procedure and Regulations that requires an applicant for termination of bargaining rights under section 43, subsection (2) of the Act to meet these conditions. Section 19, subsections (1) and (2) of the Board's Rules of Procedure, Regulation 401, requiring evidence pertaining to (a) the circumstances concerning the origination of the statement of desire; and (b) the manner in which each signature on the statement of desire was obtained, apply specifically to an employee or group of employees affected by the application and desiring to make representations to the Board in opposition to the application for termination of bargaining rights.

To impose upon the applicant a similar standard of proof is, I suggest, an unauthorized extension of the Board's jurisdiction as well as its own Rules of Procedure.

By comparison, the Board has not required the same type of evidence from an applicant for certification nor has it been the Board's practice to initiate any enquiry in respect thereto. Unless challenged by a party to the proceeding, the Board has accepted without enquiry and at face value the signed statement of an officer or representative of the applicant union in Form 8 that (a) no employer or employers' organization has participated in its formation or administration or contributed financial or other support to it; and (b) it does not discriminate against any person because of his race, creed, colour, nationality, ancestry or place of origin. Similarly, without enquiry, the Board has accepted the declaration made by an officer or representative of the union in Form 9 concerning documentary evidence of membership and the collection and payment of initiation fees or union dues. Moreover, the Board has not initiated any enquiry as to the manner in which each signature on an application for union membership was obtained; if there have been threats, intimidation or coercion used by union representatives to get employees to sign applications for membership; or if the applications were signed on the premises of the employer or during the working hours of the employees. The Board has left it to the respondent or intervener to make allegations of impropriety and, with the exception of an allegation of "non-pay", to prove them. In the latter case, such an allegation is quite properly investigated by the Board so as not to disclose the identity of union members.

I am not suggesting that this Board should condone an employer's unlawful participation in an application for certification or in an application under section 43, subsection (2) for the termination of bargaining rights. With respect, however, I do suggest that in as much as a signed statement or declaration in Form 8 and Form 9 is accepted by the Board as evidence of the facts stated therein in applications for certification, then a similar statement or declaration should correspondingly be accepted as evidence by the Board in respect of an application for the termination of bargaining rights.

The applicant has met the requirements of section 43, subsections (2) and (3) of The Labour Relations Act. Therefore, I would have followed the direction to the Board under subsection (3) and ordered that a representation vote be conducted. The employees would be asked if they wish to bargain collectively with their employer, Remington Rand Limited, through the respondent trade union."

The Board further endorsed the Record as follows:

"In view of the dissenting decision of Board Member Irwin, I feel obliged to add some remarks of my own.

Section 50 of the Board's Rules of Procedure, Regulation 401, requires evidence of the significance by employees that they no longer wish to be represented by a trade union to be in writing signed by the employees. This rule further prescribes that no oral evidence of significance by employees that they no longer wish to be represented by a trade union shall be accepted by the Board except to identify and substantiate the written evidence. While no express provision is made in the rules as to the form or content of the evidence required to identify and substantiate the written evidence in termination cases, the Board has invariably taken the position that such evidence must include credible testimony from persons with first-hand knowledge of the circumstances of the origination and manner in which the signatures were obtained to the document. This practice which was adopted by the Board many years ago has since been applied and reiterated in numerous cases.

It was recently stated by the Board in a case dealing with a petition filed in opposition to the certification of a trade union (Pigott Motors (1961) Limited, C.C.H. Canadian Labour Law Reporter, vol. 1, ¶16,264 at pp. 13,281-13,282) that,

There are certain facts of labour-management relations which this Board has, as a result of its experience in such matters, been compelled to take cognizance. One of these facts is that there are still some employers who, through ignorance or design, so conduct themselves as to deny, abridge or interfere in the rights of their employees to join trade unions of their own choice and to bargain collectively with their employer. In view of the responsive nature of his relationship

with his employer, and of his natural desire to want to appear to identify himself with the interests and wishes of his employer, an employee is obviously peculiarly vulnerable to influences, obvious or devious, which may operate to impair or destroy the free exercise of his rights under the Act. It is precisely for this reason, and because the Board has discovered in a not inconsiderable number of cases, that management has improperly inhibited or interfered with the free exercise by employees of their rights under the Act, that the Board has required evidence in a form and of a nature which will provide some reasonable assurance that a document, such as a petition, signed by employees purporting to express opposition to the certification of a trade union truly and accurately reflects the voluntary wishes of the signatories. (See for instance, the Sinnott News Case, C.C.H. Canadian Labour Law Reporter, 1955-59, Transfer Binder ¶16,114 at p. 12,209, and the Fleck Manufacturing Ltd. Case, C.C.H. Canadian Labour Law Reporter, vol. 1, ¶16,236, at p. 13,201).

In 1958 in the Harry Hayley and Sons Limited Case, the Board referred to its practice with respect to requiring first-hand testimony of the circumstances of the origination and circulation of an employees' petition filed in opposition to the certification of a trade union and stated,

The Board has consistently held that like principles should be applied to the documents filed in support of applications by employees for termination of bargaining rights.

In my view, the Board's jurisdiction to order the taking of a representation vote in an application under section 43 of the Act is plainly dependent upon it finding that not less than 50 per cent of the employees in the bargaining unit have "voluntarily signified in writing" that they no longer wish to be represented by the union. It is of interest to note that the word "voluntarily" did not appear in the legislation before 1960. If the practice of the Board in respect to requiring first-hand viva-voce evidence of the circumstances of the origination and circulation of an employees' petition for termination before 1960, was to satisfy the Board that the document expressed the free wishes of the signatories, then a fortiori with the appearance of the word "voluntarily" in the section, there is a plain purpose to be served by the practice

now. Indeed, if any meaning at all is to be ascribed to the presence of the word "voluntarily" in the section, it is that the legislature intended the Board to satisfy itself beyond a mere statement in the document itself to that effect, that the document in fact does record the voluntary significations of the signatories.

As indicated in the dissenting decision in this case, the Board does not, of course, require a trade union in an application for certification to give first-hand testimony of the manner in which it obtained its applications for membership and payments of initiation fees of at least \$1.00. The Board's practice does require, however, that the documentary evidence submitted by the unions must comply with certain requirements as to form, content and payment of initiation fees or dues. Further, the union must establish, and often by viva voce and documentary evidence, the fact of its status as a trade union and file forms 8 and 9. Aside from the fact that an applicant for termination of bargaining rights, must adduce supporting viva voce evidence as to the origination and circulation of the termination petition, his position is obviously less onerous as to other requirements than that of an applicant trade union in an application for certification. Apart for the necessity of supporting oral testimony it is usually sufficient for acceptance by the Board if the applicant's documentary evidence for termination of bargaining rights consists solely of a "round-robin" petition disclosing at once all the signatures of the signatories below a preamble which in some way or other indicates that the signatories no longer wish to be represented by the union. While the witnesses appearing to give evidence as to the origination and manner in which the signatures were obtained to the petition are often of necessity questioned at some length as to these matters, no opportunity is afforded to the other parties to test the credibility of these witnesses by cross-examination unless and until they have established a prima facie case through witnesses of their own of allegations of impropriety made in advance of the hearing. While such evidence is usually of higher value than a bare statement in a document, its reliability in the absence of cross-examination is often a matter of question.

It is likely, of course, that if the Board required credible viva voce testimony, with the opportunity of full cross-examination, from persons

with first-hand knowledge in support of an employees' petition for termination of bargaining rights and of a union's evidence of membership, more instances of unfair labour practices, fraud, perjury and forgery would be discovered. It is not unreasonable to conclude, however, that when the present practice of the Board was worked out and adopted many years ago, and applied and enunciated in numerous cases ever since, the Board was of the opinion that the difficulties inherent in the adoption and acceptance by the Board members of certain available alternative procedures justified or induced the Board's acceptance of the present practice. In any event, however, and whatever the relative merits or demerits of the Board's present practice in applications for certification and termination, the fact remains that this practice has been unequivocally recognized and applied by the Board for many years. If there is now to be an alteration of the practice, it cannot, on any principles of fair play and natural justice, be arbitrarily or capriciously changed at this time in this case without affording the parties an opportunity to present and conduct their case in accordance with the changed practice. Further, any change in the practice should, in my view, be carefully considered and adjusted in terms of the Board's experience in the use of the present practice, see e.g. the remarks of the Board quoted above in the Pigott Motors Case."

Board Member E. Boyer, while not dissenting, said:

"I agree with Board Member H.F. Irwin that the Board's policy has not required the same type of evidence in certification proceedings as it has in termination cases or in dealing with interventions. However, in view of the stringent test that unions applying for certification must undergo I believe that the test for petitions in termination cases is not as stringent as it should be.

A trade union applicant in order to be certified must first prove its status as a trade union as defined in The Labour Relations Act. It must then show proper evidence of membership which includes evidence of payment of at least one dollar by an employee on his own behalf, signed and witnessed membership cards and receipts signed by both the employee applying for membership in the trade union and the collector.

In contrast, an applicant applying for termination of bargaining rights has only to produce a circulated petition. The person presenting it must at least be able to give evidence as to its origin and circulation. In the present case the applicant has failed to discharge even this onus. He was not even aware of the identity of the person who had authorized the retention of counsel.

Since no money is required to be paid and there is no visible evidence of support for an applicant of this type and because on past occasions the Board has found that management has influenced and interfered with employees' rights to choose freely their own union, the Board felt that the onus of proving the origin and method of circulation of the petition must rest on the applicant.

In my view the onus resting on an applicant for termination of bargaining rights is not nearly as stringent as it should be. Having regard to the onus on trade unions applying for certification I do feel that there should be a general relaxing of the burden on trade unions. If the policy is to be changed the burden of proof should be brought into equal balance for both unions and petitioners. And if my colleague had this in view then in this respect I agree with him. I disagree, however, that a change in policy should be made in the course of deciding a case. The issue here is not whether the Board's standards should be changed but whether the present standards have been met in this case. In my opinion they have not and the application is properly dismissed."

APPLICATIONS FOR DECLARATION CONCERNING SUCCESSOR TRADE UNION

DISPOSED OF DURING MARCH 1963

4348-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. Murray Printing & Gravure Limited (Respondent) v. International Brotherhood of Bookbinders Local Union No. 186 (Predecessor Trade Union). (GRANTED).

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4349-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. The Copp Clark Publishing Co. Limited (Respondent) v. International Brotherhood of Bookbinders Local 128 (Predecessor Trade Union). (GRANTED).

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4350-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. Offset Print & Litho Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

&

4351-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. W.J. Gage Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

&

4352-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. The Brown Brothers Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

4353-62-R: International Brotherhood of Bookbinders Local Union No. 28 (Applicant) v. Rolph, Clark, Stone, Limited (Respondent) v. International Brotherhood of Bookbinders Local 186 (Predecessor Trade Union). (GRANTED).

The Board endorsed the Record in each of the above matters as follows:

"This is an application for a declaration under section 47 of The Labour Relations Act that the applicant is the successor to International Brotherhood of Bookbinders, Local 186 (hereinafter called the predecessor trade union) as bargaining agent for designated employees of the respondent.

The applicant and the predecessor trade union are chartered locals of the International Brotherhood of Bookbinders (hereinafter called the parent body).

Before making an affirmative declaration under section 47 of the Act the practice of the Board has been to inquire whether the predecessor trade union has exhibited a desire and has taken the necessary steps to effect a merger, amalgamation or transfer of jurisdiction, and that members of the predecessor trade union have approved these actions. The successor trade union, with the approval of its members must also have exhibited a desire and taken the necessary steps to merge, amalgamate or accept a transfer of jurisdiction from the predecessor trade union. The actions of the successor trade union and the predecessor trade union must be authorized and approved by the parent body.

The predecessor trade union, in addition to being the bargaining agent for the unit of employees

of the respondent described above, was also the bargaining agent for a unit of employees of each of the following companies:

Rolph-Clark-Stone, Limited, Toronto,
The Copp Clark Publishing Co. Limited, Toronto
Offset Print & Litho Limited, Metropolitan Toronto
W.J. Gage Limited, Scarborough
The Brown Brothers Limited, Metropolitan Toronto.

The predecessor trade union had no bargaining rights other than for the employees of these companies and an affirmative declaration is being sought by the applicant pursuant to the provisions of section 47 of the Act under separate applications with respect to the units of employees of each of the above companies. All these applications were heard together by the Board.

The applicant has always administered the affairs of the predecessor trade union and continues to do so and it is for the purpose of unity, stability and economy that a declaration of successor status is being sought.

The predecessor trade union called a meeting of all its members for the purpose of conducting a vote to determine whether its members were in favour of amalgamating with the applicant. The notice of the meeting given to all its members set out the notice of motion to be voted on at the meeting. The members of the predecessor who were in attendance at this meeting voted by an overwhelming majority in favour of the proposed amalgamation with the applicant.

The applicant called a meeting of all its members for the purpose of conducting a vote to determine if its members were in favour of amalgamating with the predecessor trade union. The notice of this meeting which was given to all its members set out the notice of motion to be voted on at the meeting. The members of the applicant who were in attendance at this meeting voted by an overwhelming majority in favour of the proposed amalgamation.

At the request of the applicant and the predecessor trade union, the parent body authorized the applicant "to be the successor union" of the predecessor trade union and further stated that upon completion of the proceedings the parent body would then rescind the charter of the predecessor trade union. At the hearing in this matter, the Board was given an undertaking to this effect.

The Board is satisfied that the predecessor trade union, has, with the approval of its membership, exhibited a desire to merge or amalgamate with or transfer its jurisdiction to the applicant.

The Board is further satisfied that the applicant has, with the approval of its membership exhibited a desire to merge or amalgamate with or accept the transfer of jurisdiction from the predecessor trade union.

Although given notice of this application, no member of the applicant or the predecessor trade union has opposed this application.

The Board is further satisfied that the parent body has authorized and approved the actions taken or to be taken by the applicant and the predecessor trade union in this matter.

Without making a definitive finding whether the actions taken by the applicant, the predecessor trade union and the parent body were in fact a merger or amalgamation or a transfer of jurisdiction, the Board finds that the actions taken by the applicant and the predecessor trade union with the authorization of the parent body were taken for the purpose of causing the applicant to acquire the rights, privileges and duties under the Act of the predecessor trade union. In the absence of objections from any of the members of the trade unions concerned, the Board is satisfied that an affirmative declaration in favour of the applicant can be made in the circumstances of this case.

For these reasons, the Board finds that the applicant is by reason of a merger or an amalgamation or a transfer of jurisdiction, the successor to the International Brotherhood of Bookbinders, Local Union 186 which was the bargaining agent for a unit of employees of the respondent set out above.

An affirmative declaration under section 47 of The Labour Relations Act to the effect that the applicant is the successor to International Brotherhood of Bookbinders, Local 186 which was the bargaining agent of the unit of employees of the respondent referred to above will issue."

APPLICATIONS FOR DECLARATION THAT LOCKOUT UNLAWFUL

5210-62-U: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. National Refractories Ltd. (Respondent). (DISMISSED MARCH 1963)

The Board endorsed the Record as follows:

"This is an application for declaration that a lockout called or authorized by the respondent is unlawful.

The applicant was certified by this Board on November 5th, 1962, as bargaining agent for all employees of the respondent with certain exceptions not here material. Two meetings were held between the parties, on November 21st and November 28th, for the purpose of collective bargaining, but no progress was made towards the making of a collective agreement. On November 29th the respondent applied for conciliation services. On December 4th, eleven employees of the respondent company who are members of the applicant union walked off their jobs. The men concerned were informed by letter on December 6th that unless they reported for work on the morning of December 10th they would cease to be employees of the respondent company. None of the eleven men returned to their jobs on December 10th. The men were turned away by the respondent company when they did report for work on December 17th.

Since the eleven men ceased to be employees of the respondent on December 10th, we are of the opinion that there is no basis on which the applicant is entitled to a declaration under section 68 of The Labour Relations Act. The application accordingly is dismissed."

PROSECUTION INDEXED ENDORSEMENT

5371-62-U: Anton-Franz Gutsfeld (Applicant) v. International Harvester Company (Hamilton Works) Sherman Av. N. Hamilton, Ontario. Local Union 2868 of United Steelworker Union of America (Respondents). (DISMISSED MARCH 1963).

The Board endorsed the Record as follows:

"Application for consent to institute prosecution of the respondents for contravening sections 10, 59a and 65 of The Labour Relations Act.

The grounds upon which the applicant is seeking consent to the institution of a prosecution in this application are the same as those upon which the present applicant relied in a complaint that he made under section 65 of The Labour Relations Act (File No. 5187-62-U), which was heard at the same time as this application, the parties being in agreement that the representations made in respect of that application be applicable to this application as well. As we pointed out in our decision in the other case, section 65 is a procedural provision and does not establish a substantive right. It follows that consent cannot be given by the Board to the institution of a prosecution for an alleged contravention of section 65 of the Act. In so far as section 10 is concerned, the remedy by way of an applicant for consent to institute a prosecution has no application to an "infringement" of section 10. In addition, as we pointed out in our decision on the complaint referred to above, the applicant seems to have misread section 10. In any event, the evidence that the applicant sought to adduce did not indicate that there had been any course of conduct on the part of either of the two respondents that would bring matters of which the applicant is complaining within the scope of section 10. In so far as the applicant's claim rests on section 59a, the evidence he proposes to adduce would not, in our opinion, even if accepted establish that he has made out a prima facie case under that section. The application is accordingly dismissed."

SECTION 65 INDEXED ENDORSEMENT

5187-62-U: Anton Gutsfeld (Complainant) v. International Harvester Company (Hamilton Works) and 2868--Local Steelworker Union of United Steelworker Union of America (Respondents). (DISMISSED MARCH 1963).

The Board endorsed the Record as follows:

"The complainant in this case has filed a complaint under section 65 of The Labour Relations Act in which he alleges that he was dealt with by the respondents contrary to sections 10, 59 and 65 of the Act. In so far as section 65 is concerned, the Board held in the National Sea Products Limited Case, (1961) O.L.R.B. Monthly Reports, May, 1961, p. 62:

In our opinion, section 65 is a procedural and remedial section. It does not in itself establish a substantive right. The Board's justification to grant relief under section 65 is limited to cases in which the aggrieved person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated, or otherwise dealt with contrary to some specific provision of The Labour Relations Act.

Reference may also be had to the Board's decision in the Heist Industrial Services Case issued on December 7, 1962.

What of the other two sections on which the complainant relies. Section 10 reads as follows:

The Board shall not certify a trade union if any employer or any employers' organization has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any persons because of his race, creed, colour, nationality, ancestry or place of origin.

It is obvious that section 10 has no relevance to a claim under section 65. In any event the complainant in his representations to the Board at the hearing seemed to read that section as if it ended with the words "discriminates against any person", without any regard for the concluding words of the section. Even if there were evidence of discrimination for the reasons indicated in the section, the complainant's remedy would lie under other legislation and before another tribunal. In so far as the reference to section 59 in the complaint is concerned, it became evident at the very commencement of the hearing that the complainant intended to rest his complaint on an alleged infraction of section 59a rather than section 59. We find that the complainant has failed to establish that, on the evidence he sought to adduce before us, either of the respondents have contravened section 59a of the Act. We express no opinion on the question as to whether the complainant may have a remedy for the injuries he claims to have suffered against anyone in any other forum. That is a matter that lies completely outside the jurisdiction of this Board.

It should also be pointed out that, in this case, there was a collective agreement between the two respondents, the company and the union, and that the complainant was entitled to, and did, file a grievance under that agreement, the disposition of which, however, did not satisfy the complainant. In this connection, the Board said in the Dominion Stores Ltd. Case (Board File No. 2858-61-U):

In the National Showcase Company Case, (1960), C.C.H. Canadian Labour Law Reports, ¶16,185, C.L.S. 76-715, the Board held that where a complaint raises the issue that a person has been discharged contrary to the provisions of a collective agreement, the matter is one to be dealt with under the terms of the collective agreement and not by means of a hearing by the Board under section 65 of the Act. The Complainant in this case appears to be dissatisfied with the disposition of his case by the trade union which was his bargaining agent. As the Board held in the Wallace Barnes Company Case, (1961) C.C.H. Canadian Labour Law Reports ¶16,198, C.L.S. 76-742, where employees have chosen a bargaining agent to act on their behalf, they are bound by its actions and, if a collective agreement exists, by the terms of that agreement. An employee in these circumstances must seek relief under the agreement and not by an application to this Board.

Having regard to all the foregoing considerations, this complaint is dismissed."

REQUESTS FOR REVIEW IN COMPLAINTS UNDER SECTION 65 (UNFAIR LABOUR PRACTICE) DISPOSED OF BY THE BOARD

4794-62-U: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Tung-Sol of Canada Limited (Respondent).

- and -

4819-62-U: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Tung-Sol of Canada Limited (Respondent).

- and -

4905-62-U: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Tung-Sol of Canada Limited (Respondent).

On March 14, 1963 the Board further endorsed the above matters as follows:

"The respondent in its letter dated March 1st, 1963 requests the Board to reconsider its decisions in this matter dated January 14th, 1963 and January 30th, 1963.

The respondent does not allege that new evidence has come to its attention which was not available to it at the hearing of this matter.

At the hearing the complainant adduced evidence that the aggrieved persons were very active in support of the complainant in its attempt to organize the employees of the respondent for the purpose of applying to be certified as bargaining agent for employees of the respondent. The aggrieved persons were, what might be described as "ring leaders" in the attempts of the complainant to organize the employees of the respondent.

The complainant adduced further evidence that the personnel manager of the respondent went to great lengths to make enquiries as to the nature of the union activities in the plant and the employees who supported the union.

The respondent had knowledge of the fact that the complainant was attempting to organize its employees because the respondent prohibited an official of the complainant from distributing leaflets at the entrance of the plant.

The personnel manager of the respondent denied that he had attempted to ascertain the identity of persons engaged in union activity, but his denial was made in such a manner that, on the basis of credibility, we believed the testimony of the complainant witnesses and disbelieved the evidence of the respondent's personnel manager.

The complainant testified that the respondent had knowledge of the complainant's attempt to organize the respondent's employees and alleged that the respondent had knowledge of the fact that the aggrieved persons were active in assisting the complainant.

The respondent denied being possessed of this knowledge and because we did not find the personnel manager to be a truthful witness with respect to his inquiry about union activity, all the evidence of the personnel manager is therefore suspect and we did not believe him to be a truthful witness when he denied knowledge of the union activities of the aggrieved persons. Having found his denial to be

untruthful, we are led to the inescapable conclusion that the personnel manager had knowledge of the union activities of the aggrieved persons.

As we have already set out in our previous decisions, the explanation for the discharges which were offered by the respondent did not satisfy the Board as being the real reasons for the discharges of the aggrieved persons.

On the basis of all the evidence, having regard to the credibility of all the witnesses, their demeanour in the witness box, their attitude and manner in which they gave their evidence, we chose to disbelieve the respondent's evidence relating to the discharges and found that the complainant had satisfied the onus upon it that the aggrieved persons were discharged by the respondent contrary to The Labour Relations Act.

In view of these findings and in all the circumstances of this case, we do not consider it advisable to reconsider, vary or revoke the decisions in this matter dated January 14th, 1963 and January 30th, 1963."

Board Member R.W. Teagle said:

"Without deviating from my original dissent in this matter, I must agree with my colleagues that, as no new evidence has been presented, the request for reconsideration should be denied."

SPECIAL ENDORSEMENTS IN APPLICATIONS FOR CONCILIATION SERVICES

DISPOSED OF BY THE BOARD

5503-62-C: Sheet Metal Workers' International Association, Local Union 269 (Applicant) v. Acme Plumbing and Heating (Respondent). (REFERRED MARCH 1963).

The Board endorsed the Record as follows:

"The applicant alleges that this application is one pertaining to the construction industry. The same allegation was made when the applicant applied for certification for the employees of the respondent. In that case the Board said in part:

"At the hearing in this matter the applicant was unable to give the Board any definitive picture of the nature of the respondent's business or the work engaged in by the employees for whom the applicant is seeking to act as bargaining agent. In the circumstances the Board is unable to find that the application is one falling within section 92 of The Labour Relations Act."

The circumstances referred to in the Board's earlier decision remain unchanged. In this case, therefore the Board is again unable to find that the application is one falling within section 93 of The Labour Relations Act or, stated in another way, the Board is unable to find that the application is one pertaining to the construction industry as defined in section 1(1)(da) of The Labour Relations Act.

However the Board is prepared to accept the application as though it was one filed under section 13 of the Act."

5505-62-C: Sheet Metal Workers' International Association Local Union 269 (Applicant) v. Quinte Plumbing & Heating (Respondent). (REFERRED MARCH 1963).

The Board endorsed the Record in part as follows:

"The applicant alleges that this application is one pertaining to the construction industry. The same allegation was made when the applicant applied for certification for the employees of the respondent. In that case the Board said in part:

"At the hearing in this matter the applicant was unable to give the Board any definitive picture of the nature of the respondent's business or the work engaged in by the employees for whom the applicant is seeking to act as bargaining agent. In the circumstances the Board is unable to find that the application is one falling within section 92 of The Labour Relations Act."

The circumstances referred to in the Board's earlier decision remain unchanged. In this case, therefore the Board is again unable to find that the application is one falling within section 93 of The Labour Relations Act or, stated in another way, the Board is unable to find that the application is one pertaining to the construction industry as defined in section 1(1)(da) of The Labour Relations Act.

However the Board is prepared to accept the application as though it was one filed under section 13 of the Act."

5608-62-C: Sheet Metal Workers' International Association, Local Union 562 (Applicant) v. H. Boehmer & Company Limited (Respondent). (DISMISSED).

The Board endorsed the Record as follows:

"Paragraph 16.01 of the collective agreement between the parties effective from September 6th, 1960 requires notice of intention to terminate or amend the agreement to be given in writing not earlier than sixty days and at least thirty days before the expiry date of the agreement or of any subsequent period for which the agreement remains in force. The expiry date of the agreement is set out in paragraph 16.01 as the 6th day of September, 1962. In the absence of notice it is provided that the agreement shall continue in effect from year to year.

Having regard to the representations of the respondent made in paragraphs 4 (1) and 6 (2) of its reply to application for conciliation services to the effect that the notice was not received until the 11th of August, 1962 and that the respondent did not waive its right to treat the contract as continuing in effect for a further year and having further regard to the fact that the applicant stated in its letter to the Board dated March 22nd, 1962 that it was not in a position to contradict the allegations of the respondent in this regard, the Board finds that this application for conciliation services is untimely and is therefore dismissed."

PART 2

1. Applications and Complaints to the
Ontario Labour Relations Board S55
2. Hearings of the Ontario Labour
Relations Board S55
3. Applications and Complaints Disposed of
by Ontario Labour Relations Board by
Major Types S56
4. Applications Disposed of by the Ontario
Labour Relations Board by Types and by
Disposition S57
5. Representation Votes in Certification
Applications Disposed of by Board S59
6. Representation Votes in Termination
Applications Disposed of by Board S59

TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

	Number of applications filed Mar. 1st 12 months of fiscal year		
	<u>1963</u>	<u>62-63</u>	<u>61-62</u>
I Certification	93	786	840
II Declaration Terminating Bargaining Rights	6	89	84
III Declaration of Successor Status	1	13	9
IV Conciliation Services	96	1191	1220
V Declaration that Strike Unlawful	-	30	39
VI Declaration that Lockout Unlawful	1	10	2
VII Consent to Prosecute	4	141	104
VIII Complaint of Unfair Practice in Employment (Section 65)	14	145	139
IX Miscellaneous	<u>2</u>	<u>23</u>	<u>21</u>
TOTAL	<u>217</u>	<u>2428</u>	<u>2458</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Number Mar. 1st 12 months of fiscal year		
	<u>1963</u>	<u>62-63</u>	<u>61-62</u>
Hearings & Continuation of Hearings by the Board	85	1192	994

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

		Number of applications disposed of Mar. 1st 12 months of fiscal year		
		<u>1963</u>	<u>1962-63</u>	<u>1961-62</u>
I	Certification	75	839	786
II	Declaration Terminating Bargaining Rights	7	92	73
III	Declaration of Successor Status	12	16	10
IV	Conciliation Services	97	1174	1239
V	Declaration that Strike Unlawful	1	31	40
VI	Declaration that Lockout Unlawful	2	12	2
VII	Consent to Prosecute	8	142	109
VIII	Complaint of Unfair Practice in Employment (Section 65)	14	149	129
IX	Miscellaneous	<u>1</u>	<u>18</u>	<u>17</u>
TOTAL		<u>217</u>	<u>2473</u>	<u>2405</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

Disposition	Mar. 1st 12 mos.fiscal yr.			*Employees		
	<u>'63</u>	<u>62-63</u>	<u>61-62</u>	<u>'63</u>	<u>62-63</u>	<u>61-62</u>
<u>I Certification</u>						
Granted	54	555	45	1708	30576	13505
Dismissed	17	214	16	3950	15906	7797
Withdrawn	<u>4</u>	<u>70</u>	<u>16</u>	<u>92</u>	<u>2606</u>	<u>2872</u>
TOTAL	<u>75</u>	<u>839</u>	<u>77</u>	<u>5750</u>	<u>49088</u>	<u>24174</u>
<u>II Termination of Bargaining Rights</u>						
Terminated	4	58	21	109	1738	579
Dismissed	2	25	49	163	695	1560
Withdrawn	<u>1</u>	<u>9</u>	<u>3</u>	<u>5</u>	<u>238</u>	<u>96</u>
TOTAL	<u>7</u>	<u>92</u>	<u>73</u>	<u>277</u>	<u>2671</u>	<u>2235</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S58 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

	Number of appl'ns dis. of Mar. 1st 12 mos. fiscal year		
	<u>'63</u>	<u>62-63</u>	<u>61-62</u>

III Conciliation Services*

Referred	92	1065	1172
Dismissed	2	26	13
Withdrawn	<u>3</u>	<u>83</u>	<u>54</u>
TOTAL	<u>97</u>	<u>1174</u>	<u>1239</u>

IV Declaration that
Strike Unlawful

Granted	-	6	5
Dismissed	1	8	2
Withdrawn	<u>-</u>	<u>17</u>	<u>33</u>
TOTAL	<u>1</u>	<u>31</u>	<u>40</u>

V Declaration that
Lockout Unlawful

Granted	-	1	-
Dismissed	2	8	1
Withdrawn	<u>-</u>	<u>2</u>	<u>1</u>
TOTAL	<u>2</u>	<u>11</u>	<u>2</u>

VI Consent to
Prosecute

Granted	-	18	34
Dismissed	3	20	15
Withdrawn	<u>5</u>	<u>104</u>	<u>62</u>
TOTAL	<u>8</u>	<u>142</u>	<u>111</u>

*Includes applications for conciliation services re unions
claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Number of Votes		
	Mar. '63	1st 12 months of fiscal yr. 62-63	61-62
<u>*Certification After Vote</u>			
pre-hearing vote	2	36	22
post-hearing vote	8	40	64
ballots not counted	-	2	-
 <u>Dismissed After Vote</u>			
pre-hearing vote	2	17	6
post-hearing vote	3	68	66
ballots not counted	-	1	-
TOTAL	<u>15</u>	<u>164</u>	<u>158</u>

*Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Number		
	Mar. '63	1st 12 months of fiscal yr. 62-63	61-62
*Respondent Union Successful	-	5	6
Respondent Union Unsuccessful	<u>4</u>	<u>32</u>	<u>19</u>
TOTAL	<u>4</u>	<u>37</u>	<u>25</u>

*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the incumbent union is thus the respondent.

BILL 132

4TH SESSION, 26TH LEGISLATURE, ONTARIO
11-12 ELIZABETH II, 1962-63

An Act to amend The Labour Relations Act

Section 47a (enacted by 1962-63,
C.70, S.1) comes into force on
the 25th day of June, 1963.

MR. ROWNTREE

BILL 132

1962-63

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 202,
amended

47a.—(1) In this section,

Interpre-
tation

(a) “business” includes a part or parts thereof;

(b) “sells” includes leases, transfers and any other manner of disposition, and “sold” and “sale” have corresponding meanings.

(2) Where an employer who is bound by or is a party to a collective agreement with a trade union or on behalf of whose employees a trade union has been certified as bargaining agent or has given or is entitled to give notice under section 11 or 40 sells his business, the trade union continues, until the Board otherwise directs, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 11. Successor
employer

(3) Where a business was sold to a person and a trade union was the bargaining agent of any of the employees in such business or a trade union is the bargaining agent of the employees in any business carried on by the person to whom the business was sold, and, Powers of
Board

- (a) any question arises as to what constitutes the like bargaining unit referred to in subsection 2; or
- (b) any person or trade union claims that, by virtue of the operation of subsection 2, a conflict exists between the bargaining rights of the trade union that represented the employees of the predecessor employer and the trade union that represents the employees of the person to whom the business was sold,

the Board may, upon the application of any person or trade union concerned,

- (c) define the composition of the like bargaining unit referred to in subsection 2 with such modification, if any, as the Board deems necessary; and
- (d) amend, to such extent as the Board deems necessary, any bargaining unit in any certificate issued to any other union or any bargaining unit defined in any collective agreement.

Idem

- (4) The Board may, upon the application of any person or trade union concerned made within thirty days after the trade union has given a notice under subsection 2, terminate the bargaining rights of the trade union that has given notice if, in the opinion of the Board, the person to whom the business was sold has changed its character so that it is substantially different from the business of the predecessor employer.

Idem

- (5) Where a business was sold to a person who carries on one or more other businesses and a trade union is the bargaining agent of the employees in any of the businesses and such person intermingles the employees of one of the businesses with those of another of the businesses, the Board may, upon the application of any person or trade union concerned,
 - (a) determine whether the employees concerned constitute one or more appropriate bargaining units;
 - (b) declare which trade union or trade unions, if any, shall be the bargaining agent or agents for the employees in such unit or units; and

- (c) amend, to such extent as the Board deems necessary, any certificate issued to any trade union or any bargaining unit defined in any collective agreement.
- (6) Where a trade union is declared to be the bargaining agent under subsection 5, it is entitled to give to the employer a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 11. ^{Notice to bargain}
- (7) Before disposing of any application under this section, the Board may make such inquiry, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it deems appropriate. ^{Powers of Board before disposing of application}
- (8) Where an application is made under this section, an employer is not required, notwithstanding that a notice has been given by a trade union, to bargain with that trade union concerning the employees to whom the application relates until the Board has disposed of the application and has declared which trade union, if any, has the right to bargain with the employer on behalf of the employees concerned in the application. ^{Where employer not required to bargain}
- (9) For the purposes of sections 5, 43, 46 and 96, a notice given by a trade union under subsection 2 or a declaration made by the Board under subsection 5 has the same effect as a certification under section 7. ^{Effect of notice or declaration}

2. Section 4 of *The Labour Relations Amendment Act, 1961-62* is repealed. ^{1961-62, c. 68, s. 4, repealed}

3. This Act may be cited as *The Labour Relations Amendment Act, 1962-63*. ^{Short title}

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